ANNUAL REPORT

OFFICE OF THE POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

2014/2015

integrity independence excellence

Office of the
Police Complaint Commissioner

British Columbia, Canada

August 21, 2015

The Honourable Linda Reid
Speaker of the Legislative Assembly
Parliament Buildings, Room 207
Victoria, BC V8V 1X4

Dear Madam Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2014/2015 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

Stan T. Lowe
Police Complaint Commissioner

Stan T. Lowe
Police Complaint Commissioner

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COMMISSIONER'S MESSAGE

This past year has been a very busy and successful time for our office as we were engaging in a number of internal and external initiatives involving our oversight work.

In May 2014, the Canadian Association of Civilian Oversight of Law Enforcement Annual Conference was held in Victoria, and the OPCC played a significant role in hosting this important symposium. The conference sold out early and stakeholders in police oversight from across the country congregated in Victoria to participate in this professional development event. The government of British Columbia was one of the sponsors to this very successful event, where the heads of oversight were able to liaise with attendees from professional standards sections, police associations and civilian advocacy groups to gain a greater understanding of the oversight landscape.

In terms of internal initiatives, our office focused on development and standardization of our internal business practices to ensure consistency and excellence in our work, which in turn will promote both public and police confidence in our oversight.

As required under the *Police Act*, we have provided government with our updated recommendations for legislative changes to improve both the effectiveness and efficiency of the disciplinary process. Some of the most notable recommendations are aimed at resolving issues related to jurisdiction, process and procedure. In addition, we have made recommendations to enhance the role of informal resolution and mediation for appropriate matters in the police oversight system.

We are in the initial stages of a "revisioning" process for the OPCC, which includes the establishment of a strategic plan to modify our operations to better meet the needs of the current legislation and react quickly to any legislative changes that the government may pass in the future.

We have initiatives in place to facilitate the expansion of our work to explore those areas identified within our jurisdiction which have been overlooked in the past. Furthermore, we are continuing with our goal of civilianization of the OPCC to a point which still optimizes the skill sets available to conduct effective and efficient oversight of the disciplinary process.

I work alongside a very talented staff of individuals who are guided by the public interest and are deeply committed to public service.

Stan T. Lowe
Police Complaint Commissioner

ABOUT THE OPCC

Mandate

The Office of the Police Complaint Commissioner (OPCC) is a civilian, independent office of the legislature which oversees and monitors complaints and investigations involving municipal police in British Columbia and is responsible for the administration of discipline and proceedings under the *Police Act*.

The OPCC performs a gatekeeping function by determining the admissibility of complaints received from the public, initiating investigations and, when appropriate, referring matters for adjudicative review. The OPCC ensures that investigations by police agencies under the *Police Act* are thorough and professional, and are undertaken with impartiality and fairness to all parties involved.

The OPCC maintains records of all police complaints and *Police Act* investigations involving municipal police officers and the investigation outcomes. The office compiles statistical information and reports regularly to the public about these complaints and investigations. The Police Complaint Commissioner is responsible for advising, informing and assisting all parties involved in the complaint process; this includes complainants, police officers, discipline authorities, police boards, and adjudicators appointed under the *Police Act*.

Mission

The Office of the Police Complaint Commissioner promotes accountable policing within our communities and enhances public confidence in law enforcement through impartial, transparent civilian oversight.

Vision

To engage in effective civilian oversight that provides accountability and builds public confidence in policing.

Guiding Principles

Integrity

We act fairly and honestly in our oversight of the complaint process involving municipal police in British Columbia while ensuring a principled and just approach in arriving at decisions.

Independence

As an independent office of the legislature, we serve the public objectively, impartially and free from any improper influence or interference.

Excellence

We are committed to excellence in our work while promoting courage and perseverance in our staff. We recognize that it is outstanding and dedicated people, working as a team, who make our mission and values a reality.

Police Act Requirements

The Police Complaint Commissioner is ***required*** by the *Police Act* to:

- Establish guidelines to be followed with respect to the receiving and handling of registered complaints and questions or concerns.
- Establish forms to be used for registered complaints, mandatory investigations, and by members of the public who have questions or concerns.
- Establish and maintain a record of each complaint and investigation, including all supporting documents.
- Compile statistical information regarding complaint records, including:
    - demographic information;
    - number and frequency of complaints, types or classes of complaints, and the outcomes or resolutions; and
    - trends in relation to police complaints.
- Report regularly to the public about complaints, complaint dispositions and the complaint process. Such reports must be published at least annually and be posted on a publicly-accessible website.
- Develop and provide outreach programs and services to inform and educate the public on the police complaint process and the services provided by the OPCC, with special consideration and attention to addressing the particular informational needs of British Columbia's diverse communities.
- Establish and make available to the public a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with informally resolving or mediating their complaints when appropriate.
- Inform, advise and assist the public, complainants, police officers, discipline authorities, police boards and adjudicators with the complaint process.
- Accept and consider comments from any interested party regarding the administration of the police complaint process.
- Make recommendations for the improvement of the police complaint process in the Annual Report.
- Establish procedures for mediation and guidelines for informal resolutions of public trust complaints.

The Police Complaint Commissioner ***may*** also do the following:

- Report on any matter related to the functions of the Commissioner.
- Engage in or commission research on any matter relating to the police complaint process.
- Make recommendations to police boards about policies or procedures on factors that gave rise to a complaint.
- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit be undertaken to assist police in developing training or other programs designed to prevent the recurrence of problems revealed by the complaint process.
- Make recommendations to the Director of Police Services to exercise one or more of their legislatively-appointed functions in relation to a service or policy complaint.
- Make recommendations to the Solicitor General for a public inquiry under the *Public Inquiry Act* if there are reasonable grounds to believe:
    1. the issues supporting an inquiry are so serious or widespread that a public inquiry is necessary in the public interest; or
    2. an investigation conducted under Part 11 of the *Police Act*, even if followed by a Public Hearing or Review on the Record, would be too limited in scope, and powers granted under the *Public Inquiry Act* are needed.
- Consult with and advise contemporaries in other Canadian jurisdictions or with the Royal Canadian Mounted Police.

Jurisdiction

The Office of the Police Complaint Commissioner oversees the handling of complaints involving the following police departments:

MAINLAND

- ABBOTSFORD
- DELTA
- NELSON
- NEW WESTMINSTER
- PORT MOODY
- SOUTH COAST BC TRANSPORTATION AUTHORITY POLICE SERVICE
- STL'ATL'IMX TRIBAL POLICE
- VANCOUVER
- WEST VANCOUVER
- COMBINED FORCES SPECIAL ENFORCEMENT UNIT OF BRITISH COLUMBIA (MEMBERS OF THE ORGANIZED CRIME AGENCY OF BC)

VANCOUVER ISLAND

- CENTRAL SAANICH
- OAK BAY
- SAANICH
- VICTORIA

The Commissioner does not have jurisdiction over the handling of complaints involving members of the Royal Canadian Mounted Police (RCMP). The *Royal Canadian Mounted Police Act* provides a separate process for complaints regarding a member of the RCMP. Complainants are referred to the Civilian Review and Complaints Commission for the RCMP:

Civilian Review and Complaints Commission for the RCMP
National Intake Office
PO Box 88689
Surrey, BC V3W 0X1
Telephone: 1-604-501-4080 or Toll-Free at 1-800-665-6878
Website: www.crcc-ccetp.gc.ca

Did you know?
The OPCC is able to receive complaints in person, by post, email, fax, or phone, or via our website at www.opcc.bc.ca.

Other Agencies

There are two other agencies in British Columbia responsible for either investigating police-involved incidents or providing civilian oversight of police complaint investigations.

Independent Investigations Office (IIO)

The IIO is a civilian investigative body responsible for investigating officer-involved incidents that result in death or serious harm in order to determine whether or not an officer may have committed an offence. The IIO has jurisdiction over both municipal police agencies and the RCMP in British Columbia as well as officers appointed as Special Constables when they are exercising their authority as Special Constables. For more information about the IIO, please visit www.iiobc.ca.

Civilian Review and Complaints Commission for the RCMP (CRCC)

The CRCC is an independent agency created to ensure that complaints about the conduct of RCMP members are examined fairly and impartially. The CRCC conducts reviews when complainants are not satisfied with the RCMP's handling of their complaint. The CRCC also conducts investigations, holds hearings, reports findings and makes recommendations for changes to national policing policies and practices. For more information about the CRCC, please visit www.crcc-ccetp.gc.ca.

The Civilian Component

The work of the OPCC is unique in comparison to that of other independent offices of the legislature. It provides oversight over municipal police officers who hold significant powers over citizens in the enforcement of the law created both federally and provincially.

OPCC analysts must possess a comprehensive understanding of the *Police Act* and associated processes, and must also possess an expertise in the professional aspects of police operations. This policing expertise includes strategic operations, policy, training and the conduct of all aspects of police investigations.

Recent commissions of inquiry and review involving police incidents and oversight headed by the Honourable William H. Davies, QC, the Honourable Thomas R. Braidwood, QC, and Ontario Ombudsman André Marin, have echoed a common theme: *the importance of civilian participation in the oversight and investigation of police-involved incidents.*

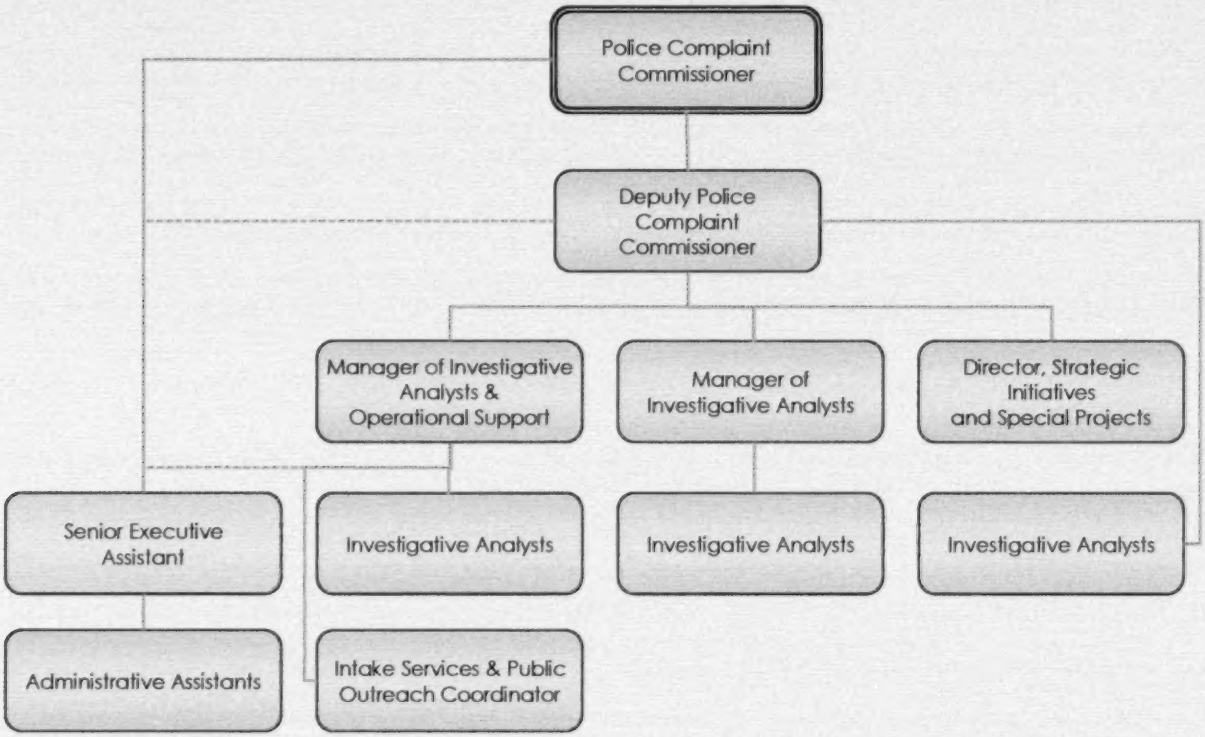
In terms of staffing, the OPCC will continue to rely upon the valuable contribution from former police officers to address its needs for expertise and knowledge in the field of policing. An internal training process is in place to ensure the development of this specialized knowledge and expertise amongst OPCC civilian staff members.

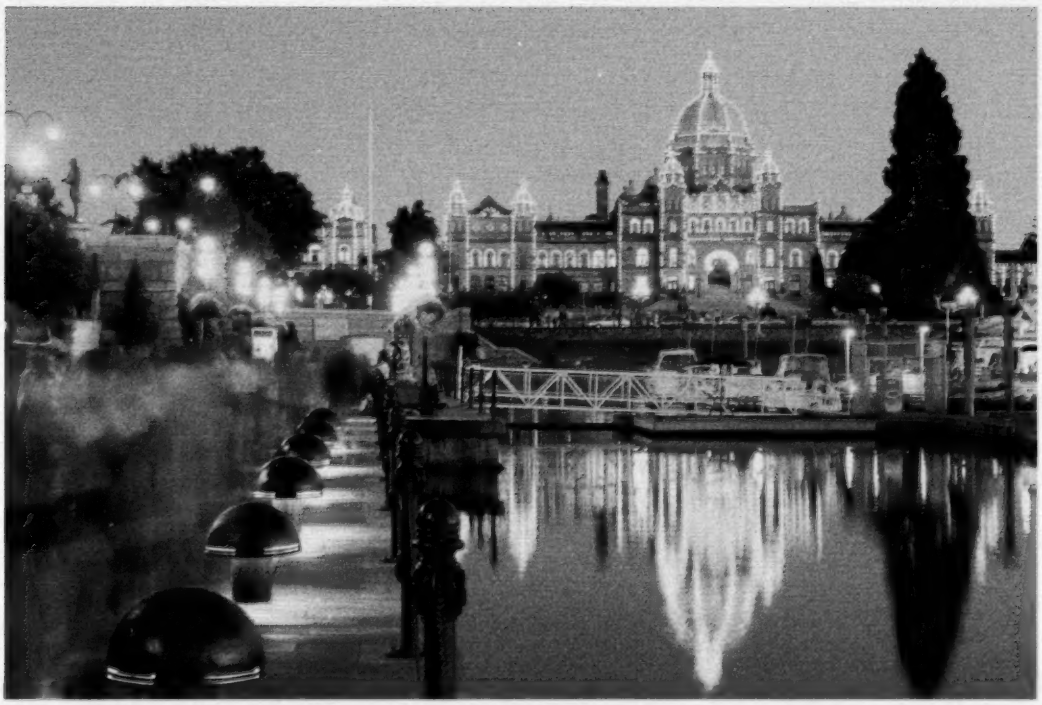
The OPCC's goal is to maintain the optimal balance between promoting the civilian nature of the office and ensuring its staff have the necessary skill sets in place to maintain excellence in their oversight work.

Approximately half of the staff engaged in decision-making roles have backgrounds outside of policing. Many are the product of an intensive in-house training program which began several years ago.

While civilian participation in oversight is an important goal for the OPCC, the Commissioner has set, as the office's operational focus, *organizational loyalty in our performance of the OPCC's important service to the public*, regardless of our staff's collective backgrounds.

OPCC Structure





Outreach

Using Outreach to Increase Access to the Police Complaint Process

The Office of the Police Complaint Commissioner continues to build partnerships with community-based organizations whose members may need assistance in accessing our services. Building trust within the community begins at the community level. By engaging in collaborative partnerships, we are able to improve accessibility to the police complaint process for those who may be hesitant or unable to directly access a police department or our office to file a complaint.

An important part of the police complaint process is resolving complaints using **Alternative Dispute Resolution** *(see page 19 for a full description)*. During the ADR process, a community support person may assist a complainant who may face challenges such as cultural, economic, age, language or physical barriers. Many community-based organizations recognize that there are those in our society who do not have a support system in place and so, have generously offered to assist those who fall within their mandate. A list of these support groups is available from the OPCC.

The OPCC would also like to recognize the following agencies who assist our office by disseminating information about the police complaint process, as well as by providing support to those who need it during the police complaint process:

Abbotsford Community Services • Atira Women's Resource Society • Battered Women's Support Services • BC Coalition of People with Disabilities • Carnegie Community Centre • Coast Mental Health • Covenant House • Cool Aid Society • Cridge Centre for the Family • Delta Assist Family and Community Services • Downtown Eastside Women's Centre • Elizabeth Fry Society • First United Church • Frank Paul Society • Fraserside Community Services Society • Jewish Family Service Agency • John Howard Society of BC • Justice For Girls • Knowledgeable Aboriginal Youth Association • Men's Trauma Centre • Métis Nation British Columbia • MOSAIC • MPA - Motivation, Power and Achievement Society • Native Courtworker and Counselling Association of BC • Our Place Society • PACE Society • Pacific Community Resources Society • PEERS Victoria • Progressive Intercultural Community Services • Salvation Army • Shiloh Housing Society • Sixth Avenue United Church • South Vancouver Neighbourhood House • S.U.C.C.E.S.S. • Kettle Friendship Society • UBC First Nations Legal Clinic • Urban Native Youth Association • Vancouver Aboriginal Friendship Centre Society • Vancouver Rape Relief • Victoria Disability Resource Centre • Victoria Immigrant and Refugee Centre Society • WISH • Women Against Violence Against Women Rape Crisis Centre • YWCA Crabtree Corner • YWCA Legal Educator.

Educational Outreach

This year, the OPCC delivered a number of educational presentations to academic institutions both on Vancouver Island and the Mainland to provide information on the complaint process, *Police Act* legislation and the role of civilian oversight in British Columbia. Each semester we meet with the University of Victoria Law Centre students to discuss the complaint process and how their organization could provide support to those who wish to file a police complaint. We

also deliver an annual presentation to the interns enrolled in the BC Legislative Internship Program.

In addition to providing educational presentations, the Police Complaint Commissioner has been part of the Advisory Committee on Provincial Policing Standards, the Provincial Committee on Cultural Diversity and Policing, and has held the position of President of the Canadian Association for Civilian Oversight of Law Enforcement. The Commissioner meets regularly with police department executives and police unions to discuss emerging *Police Act* issues and complaint trends as well as with other police oversight bodies in Canada, such as the Office of the Independent Police Review Board of Ontario and the Alberta Law Enforcement Review Board to discuss misconduct and other legal issues experienced in other provinces.

Other stakeholders, such as the BC Civil Liberties Association, have volunteered their time to meet with OPCC staff to provide information as to the type of matters their agencies handle.

The OPCC will continue to create and maintain relationships with organizations, representatives and policing agencies to strengthen public and police confidence in our office and our role in providing impartial civilian oversight of complaints involving municipal police.

Highlights For 2014/2015

CACOLE

The 2014 Annual Conference for the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) was held in Victoria, BC, from May 5 to 7, 2014. The primary mandate of CACOLE is to advance the concept, principles and application of civilian oversight of law enforcement in Canada at local, provincial, national and international levels. CACOLE's Board of Directors consists of representatives from each provincial oversight agency as well as at the federal level. Police Complaint Commissioner Stan T. Lowe, in his role as President of CACOLE, welcomed approximately 175 representatives from the oversight, policing, and justice communities to CACOLE's 2014 "*Oversight – Building Confidence and Trust*" Professional Development Conference.

CACOLE recognizes that there are many stakeholders in the police complaint process. These stakeholders have diverse and sometimes conflicting perspectives. The conference focused on the topics, trends and issues currently at the forefront of the oversight landscape. The following panels were of particular interest to those involved in police oversight in British Columbia:

Media, Oversight and Policing

Police Complaint Commissioner Stan Lowe moderated this popular session with panelists from the media, the police union and oversight agencies. The session began with a lively debate on the perception of bias in how the media reports police-involved incidents. The session went on to examine the role and responsibility of the media in their coverage of police incidents. Although open communication with the media is one of the cornerstones of transparency, the session examined the challenges oversight agencies face when responding to media enquiries while striving to avoid jeopardizing an investigation or violating the privacy interests of involved parties.

Police Body-Worn Cameras: How and How Much, Why and Why Not

A special legislative committee in British Columbia has recommended that body-worn cameras be adopted across the province. As more Canadian cities explore the use of body-worn cameras on police officers, questions are being raised over the cameras' effectiveness and how they may impact privacy rights. This panel reviewed the pilot project currently in operation by the Edmonton Police Service and then discussed issues which have arisen from the use of this technology, including cost, storage of data, privacy rights, disclosure obligations, impact on public complaints and officer use of force.

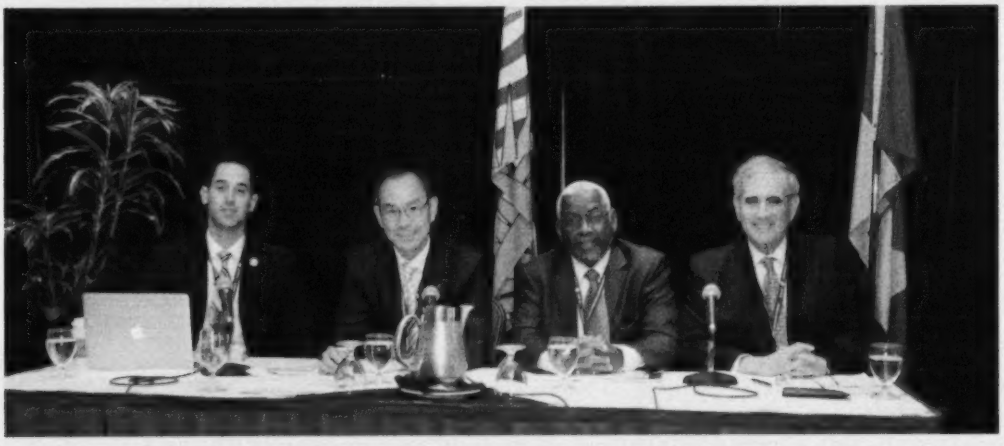
Proactive Training in Police Ethics

Earning and maintaining the public's trust requires police officers to make ethically-based decisions. Several Canadian policing organizations, including the Vancouver Police Department, have implemented programs that seek to align officer behaviour with expectations and organizational values. The Calgary Police Service initiated the "*Stay in the Game*" program. Representatives from the Calgary Police Service described the success of the program which promotes ethical decision-making by all ranks, not just at the supervisory level.

The Canadian Association of Chiefs of Police (CACP) supported the "*Professionalism in Policing Project*", a nation-wide study based on the results of a survey of police officers responding to ethics-based questions. Professor Stephan Maguire from Carleton University provided an update on the report and its recommendations.

International Perspectives on Oversight

Delegates from the United States, Trinidad and Tobago and Hong Kong provided an overview of their respective civilian oversight systems and the issues they are facing.



Panelists (l to r): Brian Buchner, Special Investigator, Los Angeles Board of Police Commissioners & President of NACOLE; Daniel Mui, Deputy Secretary General , Independent Police Complaints Council, Hong Kong; Master Ralph Doyle, Deputy Director, Trinidad & Tobago Police Complaints Authority; and panel moderator David Gavsie, Associate Chair, Ontario Civilian Police Commission

Use of Force I: Divining the Line between Reasonable and Excessive

This panel explored the right to use force versus the need to use force. Relevant sections of the *Criminal Code of Canada* were reviewed and fact-based scenarios were used to illustrate that use of force was not always the common sense approach for an officer to take.

Use of Force II: Use-of-Force Experts in Court Proceedings

This panel focused on whether use-of-force reports or use-of-force experts are an appropriate form of evidence in court proceedings. A use-of-force expert discussed his role, the value that such testimony can provide and the rules of engagement in providing expert advice. Two senior BC Counsel passionately debated the subject, from the perspectives of defense counsel and prosecutor.

Early Resolution Processes

This panel examined the use and benefits of various alternative resolution programs being used in resolving public complaints against police. Discussions also included the benefits to police in relation to risk management and the benefit to both parties by directly participating in complaint resolution outcomes.

This panel was of particular interest to OPCC staff as Police Complaint Commissioner Stan Lowe is a strong advocate of Alternative Dispute Resolution for appropriate police complaint cases.

Who Should Prosecute the Police?

This panel examined the perception of institutional bias that exists when complaints against police are investigated by the police. The panel debated who should conduct criminal prosecutions of police and who should preside over professional misconduct hearings. Delegates found the panels to be well-balanced and appreciated the opportunity to participate during the question-and-answer periods. As the conference came to an end, we were reminded of the importance of coming together to learn and share best practices in the field of civilian oversight of police.

Please visit www.cacole.ca for more complete coverage of the conference sessions and the speakers' presentations.

THE COMPLAINT PROCESS

What is a *Police Act* Complaint?

There are **three types** of complaints that are handled under Part 11 of the *Police Act*:

Public Trust complaints are about a police officer's conduct or actions that affect a citizen personally or that he or she has witnessed;

Service or Policy complaints are those regarding the quality of a police department's service to the community or regarding their operating policies; and

Internal Discipline complaints involve performance management issues or employer/employee concerns that do not affect members of the public.

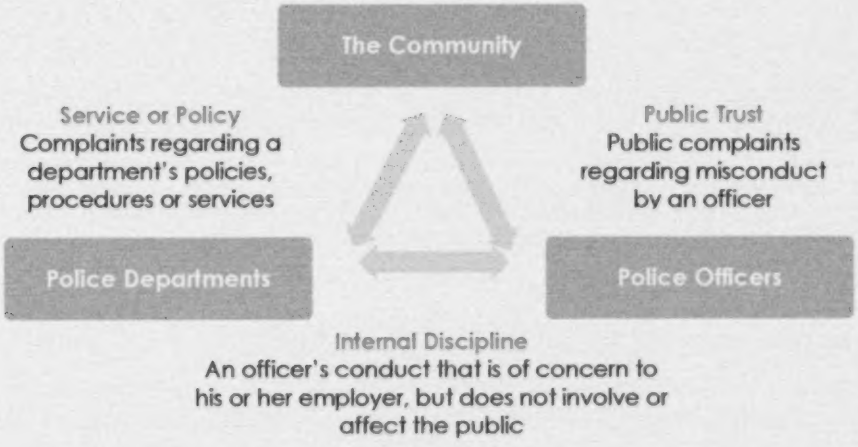
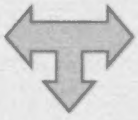

The Community
Service or Policy
Complaints regarding a department's policies, procedures or services
Public Trust
Public complaints regarding misconduct by an officer
Police Departments
Police Officers
Internal Discipline
An officer's conduct that is of concern to his or her employer, but does not involve or affect the public

Chart 1: Types of *Police Act* Complaints

THE COMPLAINT PROCESS

The complaint process may be initiated by three different routes:

Ordered Investigations
May be at the request of the department or by the Commissioner's own initiative



Mandatory External Investigations
As a result of serious injury or death while in the care or custody of the police

Registered Complaints
Formal complaints submitted by members of the public

An **ordered investigation** results when information of potential professional misconduct is received, but no complaint has been submitted by a member of the public. Between April 1, 2014, and March 31, 2015, there were 51 Ordered investigations: 31 at the request of the department and 20 on the Commissioner's initiative as a result of information received.

The *Police Act* stipulates that all incidents that result in serious injury or death to individuals in the custody or care of the police, or as a result of operations of a department, must be reported to the OPCC and the Commissioner must order an investigation be conducted by an external agency. Between April 1, 2014, and March 31, 2015, there were 24 **mandatory external investigations** ordered.

By far, the most common method of initiating the complaint process is through complaints received from members of the public. A citizen may submit a complaint regarding an incident in which they were directly involved or witnessed. Between April 1, 2014, and March 31, 2015, there were 532 **registered complaints** received.

What is considered professional misconduct by an officer?

The *Police Act* sets out categories of officer misconduct that, if proven, would constitute professional misconduct. The Act defines professional misconduct as follows:

> ***Conduct that constitutes a public trust offence which is an offence under the Criminal Code or of any provincial enactment, a conviction in respect of which does or is likely to:***
>
> 1. ***render an officer unfit to perform his or her duties as a police officer; or***
> 2. ***discredit the reputation of the department with which the officer is employed.***

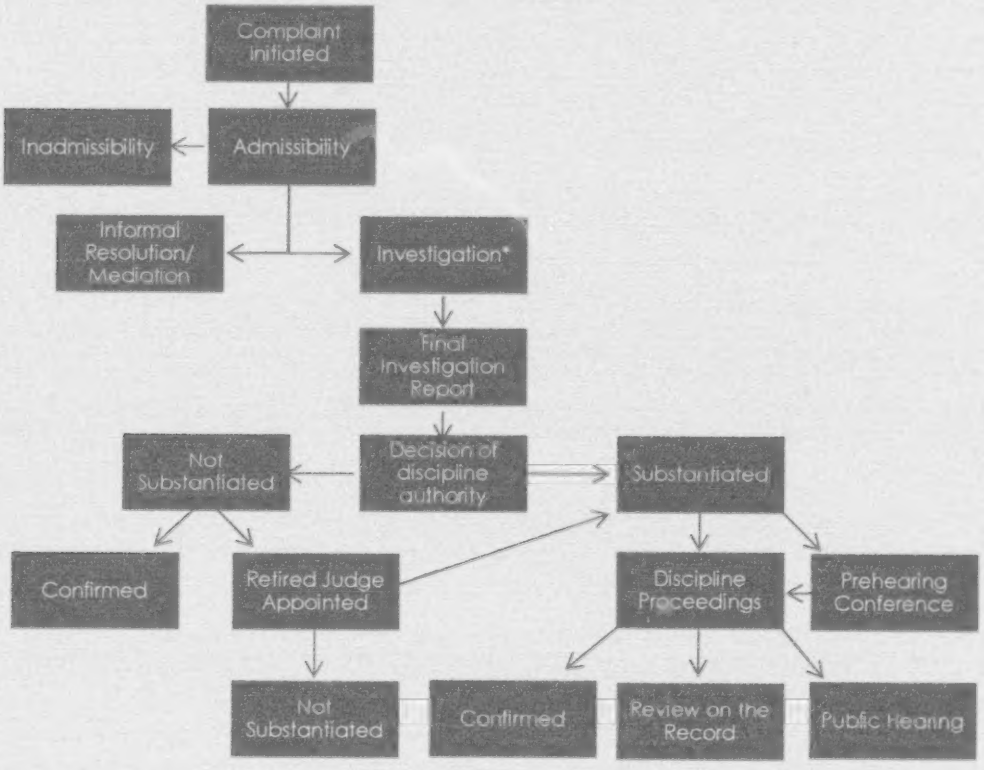
According to the Act, any conduct that is considered to be harassment, coercion or intimidation of anyone making a complaint, or hindering, delaying, obstructing or interfering with a *Police Act* investigation, is conduct that constitutes misconduct.

Types of Police Misconduct

Once a complaint file is deemed admissible or an investigation is initiated, allegations of misconduct are identified against individual officers. The *Police Act* identifies and describes 13 public trust allegations:

1. *Abuse of Authority*
2. *Accessory to Misconduct*
3. *Corrupt Practice*
4. *Damage to Police Property*
5. *Damage to Property of Others*
6. *Deceit*
7. *Discourtesy*
8. *Discreditable Conduct*
9. *Improper Disclosure of Information*
10. *Improper Off-Duty Conduct*
11. *Improper Use or Care of Firearm*
12. *Misuse of Intoxicants*
13. *Neglect of Duty*

The Complaint Process



*The OPCC can also order an investigation and municipal police departments can request that the OPCC initiate an investigation.

Chart 2: The complaint process flowchart

Admissibility Reviews

Since the revisions to the *Police Act* in 2010, all registered complaints must first be reviewed by the OPCC to determine whether they are admissible under Division 3 (Public Trust) of the *Police Act*.

In order for a complaint to be deemed admissible, it must:

1. contain an allegation of conduct that, if substantiated, would constitute misconduct as defined by the *Police Act*;
2. be filed within one year of the occurrence, except when the Commissioner considers that there are good reasons for extending the time limit and that an extension is not contrary to the public interest; and
3. not be frivolous or vexatious.

Once a complaint has been deemed admissible, it is forwarded to the Professional Standards Section of the originating police department for investigation.

Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) has been identified as a legacy initiative by the Commissioner. Resolving suitable complaints through communication, understanding and reconciliation results in a more meaningful resolution for the participants. ADR allows for repair and improvement of public confidence in police, one relationship at a time.

Depending on the particular circumstances, it may be determined that a complaint is suitable for informal resolution. A complaint can only be informally resolved if both the officer and the complainant agree to engage in the process and, ultimately, agree to the proposed resolution in writing. All agreements are reviewed by the OPCC to ensure the resolution is meaningful and appropriate based on the circumstances. Agreements reached are confidential, final and binding once confirmed by the Commissioner.

A complaint may also be suitable for resolution through the assistance of an independent professional mediator. Before a file can proceed to mediation, the Commissioner must first approve the mediation attempt to ensure the circumstances are appropriate for mediation. Mediations are completely confidential and agreements reached are final and binding as long as all the issues are resolved in accordance with the guidelines established for mediation.

Our experience has shown that there are a large number of complaints which are better suited to informal resolution or mediation, as opposed to a formal investigation which could take up to six months to reach a conclusion. By directly participating in the resolution and finding solutions to a conflict, the majority of complainants and officers come away from the process confirming that the experience resulted in a meaningful level of satisfaction. A successful informal resolution provides the opportunity to gain a greater understanding of the situation which gave rise to the complaint and both parties achieve a broader perspective on this issue. As a result, a greater degree of learning and relationship-building can be obtained compared to the outcome of a formal investigation. The OPCC encourages complainants and police at the front end to take full advantage of these options, while ensuring the public interest is met.

During the review of all resolution agreements, complainants are contacted to ensure they are satisfied with the process. The responses from complainants have been positive and constructive. Feedback from complainants is very valuable to us as it assists in improving our Alternative Dispute Resolution program.

In partnership with certified mediators, the OPCC has developed a conflict resolution training program specifically designed for Professional Standards investigators and frontline officers. Both members of municipal police departments and the RCMP have attended these training sessions. As of the date of this report, we have facilitated nine sessions. The participant feedback has been positive and we will continue to revise and improve the course content as necessary to meet the specific demands of resolving police complaints. We will be developing an advanced training course for the Spring of 2016.

The OPCC will continue to promote and encourage the use of ADR by providing

assistance to Professional Standards investigators wherever possible and guidance to complainants through the process.

Since the implementation of new legislation in April 2010, the number of allegations resolved through this process has grown substantially. During fiscal year 2014/2015, we experienced a decline as compared to previous years in the number of allegations resolved through ADR, however, the number of allegations resolved through ADR is still substantially higher than under the previous legislation where only 7.8% of allegations were resolved informally.

Our goal is to lead the country in the Alternative Dispute Resolution of police complaints. Despite our efforts in promoting and encouraging ADR, it is our view that we require further change to the *Police Act* to ensure that an ADR process is at least attempted for those allegations deemed appropriate.

Discontinuations

Police Act investigations may be discontinued if, after further information is obtained, it is established that:

1. further investigation is neither necessary nor reasonably practicable;
2. the complaint is frivolous or vexatious; or
3. the complaint was made knowing it was false or misleading.

Corrective and Disciplinary Measures

The *Police Act* also sets out the range of corrective and/or disciplinary measures to be imposed if the misconduct has been proven against the officer. The measures must include one or more of the following:

- Advice as to future conduct
- Verbal reprimand
- Written reprimand
- Participate in program/activity
- Undertake counselling or treatment
- Undertake training or re-training
- Work under close supervision
- Transfer/reassignment
- Suspension without pay (up to 30 days)
- Reduction in rank
- Dismissal

All adjudicative decisions are available on the OPCC website at www.opcc.bc.ca.

Investigations

Investigations into allegations are conducted by a Professional Standards Investigator within a police department. Investigations into complaints are to be completed within six months and both the complainant and subject officer receive regular progress reports on the investigation. An OPCC investigative analyst is assigned to the file and contemporaneously monitors the investigation to ensure it is conducted professionally and addresses the concerns raised.

Once the investigation is complete, the investigator submits a *Final Investigation Report* to the discipline authority of the police department for a decision. A discipline authority is the Chief Constable of the department, or a senior officer designated by the Chief Constable. Within 10 business days of receipt of the report, the discipline authority must provide his or her decision to the complainant, the subject officer and to the OPCC. The decision must set out whether the evidence appears to substantiate the allegation of misconduct and if so, advise as to the range of proposed discipline or corrective measures. A prehearing conference may be held, allowing the officer the opportunity to admit the misconduct and accept the proposed discipline or corrective measures. If no agreement is reached or a prehearing conference is not held, the matter then proceeds to a discipline proceeding before the discipline authority.

The complainant may request a review of the file if they disagree with the discipline authority's decision not to substantiate an allegation or if they disagree with the results of a discipline proceeding. An officer may also request a review if he or she disagrees with the outcome of a discipline proceeding. Also, if the penalty imposed is dismissal or a reduction in rank, the officer is entitled to a Public Hearing or, if the Commissioner deems it more appropriate, a Review on the Record.

THE COMPLAINT PROCESS

The OPCC reviews all investigations and decisions to ensure the integrity of the process and to confirm that decisions are impartial and fair. If the Commissioner disagrees with a decision, he has three avenues of adjudicative review to choose from, depending on the unique circumstances of the matter. The Commissioner may:

appoint a new discipline authority (s.117)

Appoint a retired judge to review the Final Investigation Report and arrive at a decision as to whether the allegation appears to be substantiated by the evidence. If the finding is that the allegation appears to be substantiated, the retired judge then becomes the discipline authority for the matter. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive.

arrange a Review on the Record (s.141)

Arrange for a Review on the Record following a discipline proceeding. A retired judge is appointed to conduct a "paper review" of the entire matter, deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a Review on the Record is final and conclusive and is not open to question or review in any court.

order a Public Hearing (s.143)

Order a Public Hearing following a discipline proceeding. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. These hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law.

LEGISLATIVE IMPROVEMENT

Recommendations for Improvement to the *Police Act*

The following are summaries of the Commissioner's top priority recommendations he has submitted to the Legislative Assembly, pursuant to section 177(2)(l) of the *Police Act*. The OPCC continues to work in consultation with government regarding legislative amendments to the Act to improve the efficiency and effectiveness of the police complaint system.

1. Commissioner's Plenary Power to Arrange a Public Hearing

The BC Court of Appeal has determined that the *Police Act* does not provide the Commissioner with the authority to arrange a public hearing unless and until a discipline authority has made a finding at a discipline proceeding. The previous Act provided the Commissioner full discretion to arrange a public hearing at any stage of a complaint proceeding. In the Honourable Josiah Wood's 2007 "*Report On the Review of the Police Complaint Process In British Columbia*", he determined that public hearings should be supplemented and not eliminated as a means of determining complaints. The Attorney General also expressed in the Committee Stage of debate on the new *Police Act*, that section 142(1)(b) provides the Commissioner the authority to arrange a public hearing when needed in the public interest and not just at the end of a complaint proceeding. The Commissioner has submitted that he should have the discretion to call a public hearing into a matter at any time.

2. Standing for Judicial Reviews and Appeals

Currently, the *Police Act* does not allow the Commissioner to appear as a party during judicial review proceedings arising from matters considered under the Act. The Commissioner submits that he should be allowed to make a full range of submissions on any appeal or judicial review application. Other police oversight bodies in Canada, specifically Manitoba and Ontario, have legislated provisions entitling these oversight bodies with standing when their decisions go to appeal. Furthermore, section 177(1) of the *Police Act* states that the Commissioner is generally responsible for overseeing and monitoring complaints, investigations and the administration of discipline and proceedings under this Part, and ensuring that the purposes of this Part are achieved. It is implicit in this section that the Commissioner would have standing in all matters arising out of part 11 of the *Police Act*.

3. Replace Public Hearing Counsel with Commission Counsel

During a public hearing, an adjudicator (an appointed retired judge) is required to determine whether an officer has committed misconduct, and if so, what appropriate disciplinary or corrective measure should be imposed. The *Police Act* allows the Commissioner to appoint both a public hearing counsel and commission counsel for these proceedings. This can result in two lawyers appointed by the Commissioner making the same or similar submissions on an officer's liability or penalty, while an officer is entitled to only one advocate to argue his or her defence. The Commissioner has submitted that it is redundant to provide for the appointment of both a

public hearing counsel and a commission counsel and the Act should be amended to remove the role of the public hearing counsel.

4. Discipline Proceedings – Discipline Authority's Discretion to Call Witnesses and Expanded Role of Discipline Representatives

The purpose of a discipline proceeding is to determine the truth of the matter through an examination of the evidence, including oral testimony if necessary. During a discipline proceeding, only the respondent officer has the right to request witnesses to attend and provide testimony during the proceeding. It is very rare for any witnesses outside the Professional Standards Investigator to be called as a witness during these proceedings. The Commissioner has submitted that the current provisions of the Act do not provide a discipline authority sitting at a discipline proceeding the tools needed to ascertain the truth of the matter. The Act should be amended to allow a discipline authority unfettered discretion to summon material witnesses on his or her own initiative to address the issues and allegations before him or her.

5. Remedy: Bifurcated (Split) Proceedings Subsequent to a Section 117 Review

According to a BC Supreme Court ruling, when a discipline authority delivers a mixed decision (substantiated and unsubstantiated allegations), that discipline authority maintains jurisdiction over any of the allegations that he or she substantiates and will preside over the discipline proceeding, if required. If the Commissioner determines that a retired judge is required to review the allegations that were not substantiated, that retired judge may decide that the respondent officer's conduct appears to constitute misconduct. If that occurs, the section 117 retired judge then assumes the role of discipline authority in respect of that allegation and will preside over a separate discipline proceeding. This is true even if the different allegations arise from the same transaction or are inextricably linked; there will be two separate pre-hearing conferences or discipline proceedings. Further, in the event that both discipline authorities determine from the discipline proceeding that there was misconduct, both discipline authorities must separately put forward proposals for discipline or corrective measures for the matters they had before them and then finally decide on a disciplinary or corrective measure, having separately received the officer's submissions on the possible measures. The Commissioner submitted that the *Police Act* should be amended to avoid the division of one complaint into proceedings before two separate discipline authorities.

ALTERNATIVE DISPUTE RESOLUTION

6. a) Mandatory Informal Resolution

There are a number of benefits in resolving complaints through an Alternative Dispute Resolution (ADR) process. Complaints resolved through informal resolution (IR) allow for more efficient complaint processing and an improved satisfaction of the complaint process from both the perspective of the officer and the complainant. With ADR, participants have greater control over the process and are direct participants in crafting the agreement. Furthermore, informal resolution provides an educational opportunity for both complainants and police officers to better understand their interactions with one another, to explain perspectives and to be

provided a chance to learn from mistakes. Streamlining complaints through to informal resolution reserves investigative resources for those more serious complaints and allegations requiring investigation. The Commissioner submits that he should have the discretion to direct suitable complaints to a pre-informal resolution conference, similar to a pre-mediation conference already set out in section 160 of the Act. In cases where an informal resolution agreement could not be reached, the IR facilitator will be required to provide a summary report to the Commissioner outlining the reasons for the failed informal resolution. Based on this information, the Commissioner should have the discretion to discontinue the complaint and take no further action if it is in the public interest to do so or to direct that an investigation be undertaken pursuant to Division 3.

b) Promoting Alternative Dispute Resolution

During his appointment, the Commissioner has been working to promote the understanding of Alternative Dispute Resolution among *Police Act* decision-makers and to encourage the use of ADR particularly among discipline authorities, boards and adjudicators. This is an area that offers great promise in fulfilling the spirit of Judge Wood's 2007 report and the Legislature's enactment of the new Act to ensure the timely and appropriate determination of complaints in an efficient and cost-effective manner. The Commissioner strongly believes in the importance of promoting the understanding and use of ADR, and recommends that this work is made a more direct part of the general responsibilities and functions of the Commissioner under the Act.

c) Commissioner Discretion to Determine When Reportable Injury Complaints Lend Themselves to Informal Resolution or Mediation

Some reportable injuries may involve relatively minor injuries and may involve parties who are motivated to engage in Alternative Dispute Resolution. Due to the wording in the Act, they are prohibited from doing so. The Commissioner submits that the Act should permit the informal resolution or mediation of reportable injury complaints where the Commissioner consents to those processes being used.

7. Section 89 – Revision of Review/Oversight Process in Light of the Independent Investigations Office

Section 89(2) directs that the Commissioner must order an investigation in cases where there has been a police-involved death or serious harm and that such a matter must be investigated by an external police force or a Special Constable appointed for the purpose of this section by the Minister. The Independent Investigations Office (IIO) will also conduct an investigation in cases where a person dies or suffers serious harm. This has resulted in parallel investigations. For most cases, an investigation under section 89 by an external police agency is redundant and examines the same issues considered in the investigation conducted by the IIO. The Commissioner has submitted that the section 89 process be limited to one of notification to this office in matters where a person dies, suffers serious harm or a reportable injury. After review of the investigative materials disclosed by the IIO to the OPCC, and if the Commissioner determines

that the conduct of the municipal police officer would, if substantiated, constitute misconduct, he or she must then order an investigation under section 93.

8. Remove Member Entitlement to a Public Hearing

The Commissioner has dedicated funding for adjudicative and legal expenses to pay for legislated adjudicative reviews such as public hearings. Although this office has been arguably frugal in its exercise of discretion in remitting complaints to adjudication, the OPCC has consistently exceeded its dedicated funding each fiscal year. Based on a review of the OPCC's legal expenses, public hearings are the most costly of the adjudicative reviews and can result in significant costs to this office. Section 137(1) of the Act makes a public hearing or a review on the record, when requested by the officer, mandatory for those officers facing a proposed disciplinary measure of dismissal or a reduction in rank. As reviews on the record are a "paper review" and do not allow for the examination or cross-examination of witnesses, it is rare for a review on the record to be an appropriate avenue for adjudication. The Commissioner submits that section 137 should be amended to remove the mandatory nature of public hearings in cases where the proposed discipline is dismissal or reduction in rank and that the Commissioner should have the same discretion to arrange a public hearing regardless of the proposed discipline.

9. Guidance Related to the Taking of Statements and the Duty to Make Notes

In a 2013 decision from the Supreme Court of Canada in *Wood v. Schaeffer*, the Court determined that police officers have a duty to prepare notes and that those notes should be prepared prior to consultation with legal counsel. While the issues dealt with in *Wood v. Schaeffer* were considered in the context of an investigation conducted by the Special Investigation Unit in Ontario, the outcome of this decision is applicable to investigations conducted under the *Police Act*. The OPCC has noted an inconsistency in the way in which officers complete police notes. Police notes are an important piece of information to consider regardless of whether they are used as a source of information for a criminal investigation or for an investigation under the *Police Act*. Police notes serve as a written record of what has occurred and are often the first record of that member's observations. The Commissioner submits that there should be a legislated duty for police officers to create notes following an investigation and for all purposes under the *Police Act*.

RECOMMENDATIONS TO POLICE BOARDS

Fiscal Year 2014/2015

Service or Policy
2010-5132

On April 1, 2010, the OPCC received a Service or Policy complaint regarding the Victoria Police Department's policy when dealing with persons under the *Mental Health Act*. The complaint set out a wide variety of alleged policy deficiencies including the following:

- Victoria police were providing verbal reports to hospital staff after apprehending a person and transporting them to the hospital for assessment pursuant to section 28 of the *Mental Health Act*. The complainant believed that written reports should be mandatory.
- Victoria police were sometimes refusing to provide access to counsel to persons apprehended pursuant to the *Mental Health Act*.
- Victoria police were not always allowing persons detained pursuant to the *Mental Health Act* to contact family members or have family members provide information to police about the apprehended person.
- Victoria police were not always releasing persons apprehended pursuant to the *Mental Health Act* before leaving the hospital to attend to other duties.
- Victoria police refuse to investigate alleged false information that a physician includes in a medical report in relation to a person apprehended pursuant to the *Mental Health Act*.

On May 25, 2010, the Victoria Police Board requested that the Chief Constable investigate the complaint and submit a report to the Board for review.

A report was submitted to the Board and on June 12, 2013, the Board advised the complainant and the OPCC that after reviewing the report no service or policy changes were necessary. The Board advised that since this complaint had been filed, the provincial government had created a mandatory Crisis Intervention and De-escalation (CID) Training course for all police officers in British Columbia that addressed police contact with people in mental health crisis.

In addition, the Board's review determined that the specific issue of police providing access to counsel to persons apprehended pursuant to the *Mental Health Act* was a matter of police discretion, officer safety, statutory and case law requirements.

On July 17, 2013, the OPCC received a letter from the complainant stating that he disagreed with the Board's decision and requested that the complaint be re-investigated.

On September 3, 2013, having had the opportunity to examine the Board's decision, along with their handling of this matter, this office recommended, pursuant to section 173(1)(b) of the *Police Act*, that the Board further investigate the need for a written policy pertaining to *Mental Health Act* apprehensions in accordance with the CID training.

Specifically, our office recommended that the Board investigate the areas of the CID training that make reference to agency specific policies, and to examine those areas with the purpose of identifying and developing policy where necessary in support of the CID training. Further, this office advised that the Board's handling of this matter, as far as timeliness, was unacceptable and measures should be taken within the Victoria Police Board to ensure that matters such as this are addressed in a reasonable amount of time in fairness to all parties.

On November 19, 2013, the Board requested this office assist in expediting this matter by giving more specific direction in terms of what the policy or "best practice" was of other departments in relation to similar policy issues. Pursuant to section 177(2)(j) of the *Police Act*, this office may inform, advise and assist a Board in relation to matters related to the Act.

Accordingly, the following information was provided on January 7, 2014, as general advice for the Board's consideration to assist them in addressing the policy considerations currently under their review:

- The Board should consider liaising with other municipal boards in relation to how they have addressed similar policy issues and also review the Vancouver Police Department's regulations and procedures as a possible starting point to assist them in designing policies that are appropriate for the Victoria Police Department.
- The Board may also consider investigating the areas of the province's Crisis Intervention and De-escalation (CID) training that make reference to identifying agency-specific policies and procedures for working with individuals with mental health issues and intervening and de-escalating a crisis.
- Furthermore, consultation with local health authorities to confirm and clarify the policies and procedures at local hospitals may assist the Board in developing policy changes in relation to the documentation and transportation of persons detained through the *Mental Health Act*.
- Finally, the Board may want to give some consideration to section 34 of the *Mental Health Act* and potentially reference it in policy in order to clarify the scope of police duties and the role of designated health professionals in relation to the *Canadian Charter of Rights and Freedoms* and involuntary patients.

On July 15, 2014, the Board advised the OPCC by way of letter that it had ratified a new Mental Health Policy which addressed the concerns brought forward by the complainant and this office. These included specific guidelines to ensure those individuals apprehended under the *Mental Health Act* are afforded access to counsel and the opportunity to contact family members or other individuals prior to admission to hospital. In addition, working with the Vancouver Island Health Authority, the department has implemented a new "Emergency Department Intake Form" which is completed in relation to the patient that includes relevant observations of the patient's behaviour by police and/or reasons for the apprehension. The original of the form remains with the patient and is provided to hospital staff and a copy is retained and attached to the associated police report.

The Victoria Police Board acknowledged that this Service and Policy complaint had taken considerable time to resolve, which was unacceptable to all parties involved and the Board has taken steps to ensure that matters such as this are addressed in a timely manner in the future.

Further, the Board appreciated the Police Complaint Commissioner's guidance on this matter.

On August 13, 2014, the OPCC advised all parties that it had examined the Board's decision, including the newly drafted policy, and was satisfied with the outcome.

Service or Policy
2013-8451

The OPCC received a Service or Policy complaint regarding *"the inadequacy or inappropriateness of the Vancouver Police Department's standing orders or policies regarding by-law enforcement in Vancouver's Downtown Eastside"*. The complaint referred to *"the ticketing blitz of 2008'*, at which time residents of the Downtown Eastside (DTES) reported receiving tickets for many provincial and municipal by-law infractions, often multiple tickets at one time. The complaint also referred to recommendations made by Commissioner Wally Oppal, in his *Report of the Missing Women Commission of Inquiry*[1], specifically where Commissioner Oppal directed the Vancouver Police Department to limit the number of tickets given out for minor offences, given the barriers they create in seeking police protection.

The Vancouver Police Board requested that the Chief Constable investigate the complaint and submit a report to the Service and Policy Complaint Review Committee.

[1] Oppal, Wallace T., The Honourable. *Forsaken: The Report of the Missing Women Commission of Inquiry*, Volumes 1 – IV. 2012.

A report was submitted to the Board and after review, the Board dismissed the complaint with reasons. Included in this report were statistics on by-law infractions from 2008 to 2013.

The Commissioner reviewed the report and found three areas of concern.

1. The statistics for the number of jaywalking tickets issued per year per district noted in the report relied on the year 2008 as a baseline reference for determining the relative ticketing levels since that time. In the original Service or Policy Complaint, the complainant referred to the "ticketing blitz of 2008". This appeared to be corroborated by the statement in the VPD report that in 2008 there was a "determined effort" to address the number of pedestrians struck in the DTES. The statistics shown in the report appeared to directly reflect this effort, which resulted in a substantial number of additional jaywalking tickets being issued compared to all other years noted, and gave credence to the allegation that a "ticketing blitz" was indeed underway. With this "determined effort" being used, it was difficult to see how the number of tickets issued in 2008 could be used as a baseline for a comparison to the following years with any meaningful results, as the 2008 statistics obviously skewed the sample. A longer period of comparison was required, exempting the 2008 statistics, to provide a more meaningful sample for analysis.
2. The review has also noted that statistics for the number of pedestrians struck per district, per year are given only for the years 2008 and 2012, which does not allow for a meaningful comparison to the similar statistics for jaywalking tickets issued.
3. Regarding the implementation of Commissioner Wally Oppal's recommendations from the Missing Women Commission of Inquiry, the report from the Vancouver Police Department did not address the manner in which those recommendations had been encapsulated in policy.

Pursuant to section 173(1)(b) of the *Police Act*, the Commissioner recommended that the Vancouver Police Board request further investigation and produce the statistics of the number of jaywalking tickets issued per district, per year from 2002 to 2012 without the incorporation of the 2008 statistics, and the number of pedestrians struck per district, per year from 2002 to 2012, including the statistics from 2008.

Additionally, pursuant to section 177(4)(c) of the *Police Act*, the Commissioner recommended that the Vancouver Police Board make a policy which incorporated Commissioner Oppal's recommendation 5.9 articulated in the Report of the Missing Women Commission of Inquiry:

> *That the City of Vancouver and the Vancouver Police Department take proactive measures to reduce the number of court warrants issued for minor offences by:*
>
> - *Reducing the number of tickets issued and charges laid for minor offences;*
> - *Developing guidelines to facilitate greater and more consistent use of police discretion not to lay charges; and*
> - *Increasing the ways in which failures to appear can be quashed early in the judicial process.*

and to report on what steps the Board had taken to incorporate Commissioner Oppal's other recommendations into policy.

A supplemental report was submitted to the Board for its consideration.

The report contained the statistics for the number of pedestrians struck per district per year from 2002 to 2012; however, the Vancouver Police Department was not able to provide data on the number of jaywalking tickets issued prior to 2007.

In reviewing the statistics supplied by the Vancouver Police Department regarding the number of jaywalking tickets issued and the number of pedestrians struck by vehicles in the DTES and the Beat Enforcement Team (BET) area, the OPCC determined that it would

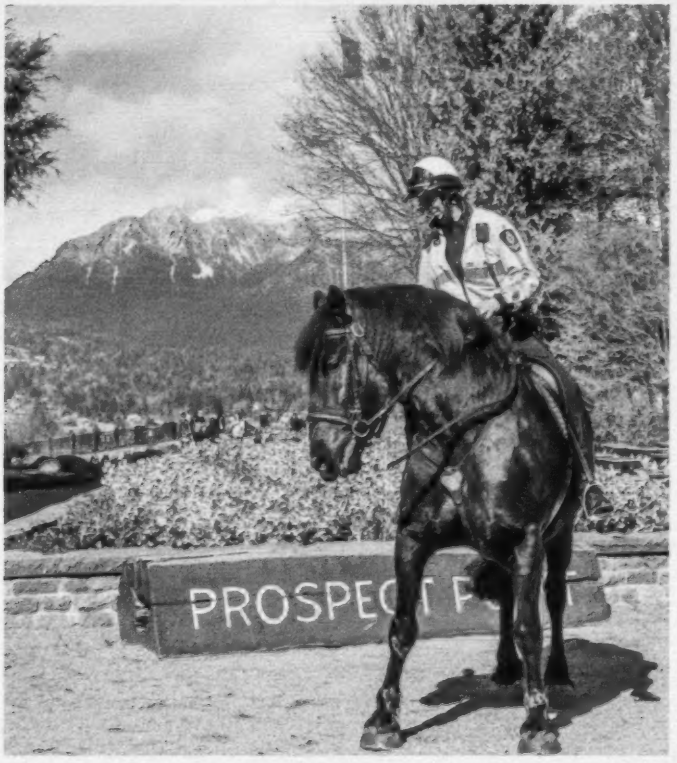
appear as though there was no direct correlation between an increase in enforcement and a reduction in pedestrian accidents.

Regarding the implementation of Commissioner Oppal's recommendations, the report indicated that two recommendations (5.1 and 5.7) which were the sole responsibility of the Vancouver Police Department, had already been implemented. The report noted that Commissioner Oppal's recommendation 5.9 was considered to be a recommendation that required joint action to be coordinated between the Vancouver Police Department and the City of Vancouver in order to reduce the number of warrants being issued for by-law offences.

Statistics provided by the City of Vancouver Prosecutor and Revenue Services appeared to indicate that the number of jaywalking tickets issued to women in the BET area have been reduced by 43% since Commissioner Oppal's report was released in November 2012. The report also indicated that recommendation 5.9 was being addressed through continuing consultation with the City of Vancouver Prosecutor, incorporating guidelines in the VPD Strategic Plan that speak to an officer's use of discretion, and focusing resources "on those who victimize others, rather than those vulnerable residents of the DTES who are abused".

The Commissioner recommended that the Board continue to progress towards encapsulating Commissioner Oppal's recommendations into policy.

Having had the opportunity to examine the supplemental report supplied by the Board, the OPCC was satisfied with the outcome and would not be making any further recommendations for investigation or study respecting this particular matter. The file was closed.



SAMPLE COMPLAINT SUMMARIES

The following complaint summaries are intended to provide samples of the variety of complaints which were concluded between April 1, 2014, and March 31, 2015. All substantiated complaints resulting in corrective or disciplinary measures are recorded on the officer's *Service Record of Discipline*.

Registered Complaint
Inadmissible Frivolous/Vexatious
OPCC 2014-9576

The complainant reported, in part, that she was assaulted by security staff at a local college. The complainant alleged that instead of investigating her concerns, police inappropriately detained her under the *Mental Health Act*.

In reviewing a complaint, our office may contact the police agency involved or the complainant to obtain further information that may assist us in arriving at a principled decision regarding the admissibility of the complaint. We are careful not to weigh the evidence at this stage, but in exercising our gatekeeping function, we must ensure we have considered all relevant circumstances which provide an accurate context to the matter.

The OPCC made several attempts to obtain further information from the complainant as her complaint was vague and lacked detail. The OPCC did not receive a response.

Therefore, the OPCC reviewed the police report on the incident. Briefly, the police report stated that a college security guard had reported an assault to police. Upon arrival, police officers observed a security guard with a bite mark on his forearm that had broken the skin. After interviewing the complainant, the police officers had concerns regarding the complainant's mental health and the complainant was transported to hospital by Emergency Health Services.

Having carefully reviewed the registered complaint and all relevant information, the OPCC determined the complaint to be inadmissible. This office was satisfied that the allegations contained in the complaint were vexatious and therefore, not admissible pursuant to the *Police Act*. A review of our records determined that the complaint was repetitious of other complaints filed by the complainant following substantially the same theme. Further, the complaint was brought for improper purposes and included an oblique motive: the complainant indicated to this office that the existence of her *Police Act* complaints would be of assistance in dealing with the Canada Border Services Agency as a basis for prolonging her stay in Canada.

Registered Complaint
Inadmissible Out of Time/No Misconduct
2014-10282

The complainant reported, in part, that a relative had entered her residence in 1999 and again in 2012 and had stolen items of a personal nature. The complainant believed that this relative had worn some of her clothing and a DNA test would prove her allegations. The complainant reported these thefts to police in 2012 and 2014; however, she believed the police failed to conduct professional investigations into her concerns and that they did not assist her due to a language barrier.

Pursuant to section 79(1) of the *Police Act*, a complaint must be made within the 12-month period beginning on the date of the conduct giving rise to the complaint.

Pursuant to section 79(2) of the *Police Act*, the Commissioner may extend the time limit for making a complaint if the Commissioner considers that there are good reasons for doing so and it is not contrary to the public interest.

In reviewing the complainant's concerns related to 2012, the OPCC determined that there were not sufficient reasons for the Commissioner to extend the time limit for making a complaint and to do so would be contrary to the public interest. From the information provided by both the complainant and the police department, it was apparent that an officer attended to the complainant's request for assistance and made a determination of the situation.

The complainant again reported her concerns to police in 2014 and believed that police again failed to conduct a professional investigation into her concerns.

As articulated in the complaint, a police officer did attend the complainant's call for assistance. Police

officers in British Columbia are afforded considerable discretion in terms of whether an investigation should be initiated, as well as the manner in which an investigation is conducted. Therefore, in reviewing the exercise of discretion related to investigations generally, a significant degree of deference is afforded to the police officer and their investigative determinations.

Further, although the complainant believed that she did not receive the assistance she needed due to a language barrier, the OPCC noted that the police officer met with the complainant at a community support agency and interviewed her with the assistance of a translator.

Having reviewed the complaint and the relevant information, the OPCC determined that this complaint was inadmissible. The conduct described in these circumstances would not, if substantiated, constitute misconduct as defined pursuant to section 77 of the *Police Act*.

Registered Complaint
Investigation Discontinued
OPCC 2014-10004

The complainant reported that he was assaulted by jail staff while being held in cells and a Staff Sergeant did nothing to assist him.

As part of the OPCC's admissibility assessment of this complaint, the OPCC reviewed a cell video provided by the police department which depicted the complainant's release from custody. Based on our initial assessment, this office determined that the complainant was processed by jail staff with the designation of Special Constables. The OPCC has no jurisdiction over Special Constables as they are outside the jurisdiction of Part 11 of the *Police Act*. The complainant was provided with the information he would need to proceed with this part of his complaint.

However, with respect to the allegation that a Staff Sergeant failed to take appropriate action, the OPCC determined this part of the complaint to be admissible under Division 3 of the *Police Act*, with the potential misconduct identified as *Neglect of Duty*, in relation to the allegation that a police officer failed to provide assistance to a member of the public.

Following a preliminary investigation, the OPCC received a request from the professional standards investigator to discontinue the investigation.

The OPCC conducted a review of the request and all associated materials. It was apparent from the evidence obtained that there were no police officers, as defined by section 76 of the *Police Act*, present at the time of the incident.

Although the complainant suggested that there was a Staff Sergeant present, there was no Staff Sergeant on duty that day. A review of jail video indicated that the Sergeant in charge had left the jail approximately 28 minutes prior to the incident and did not return until approximately 15 minutes after the incident was over.

Having regard to all the circumstances, it was the OPCC's view that further investigation was neither necessary, nor reasonably practicable. Pursuant to section 109(1)(a), the OPCC granted the discontinuance.

The OPCC was satisfied that only Special Constables were present and that there was no indication that further investigation would reveal that an officer of a municipal police department was present during the significant times.

Registered Complaint
Substantiated - Discourtesy
OPCC 2014-9762

Police responded to a call for service related to the level of noise coming from a house party. The OPCC subsequently received three registered complaints alleging that one of the officers made inappropriate comments while attending the service call.

The OPCC reviewed the circumstances as outlined in the complaints and determined that the conduct alleged would, if substantiated, constitute misconduct, specifically *Discourtesy*, and forwarded the complaints for investigation.

At the conclusion of the *Police Act* investigation, a Final Investigation Report was submitted. Based on the report's contents, the discipline authority determined that the allegation of *Discourtesy* had been proven and offered the officer a prehearing conference. At the prehearing conference, the officer accepted the proposed discipline of a written reprimand.

The OPCC reviewed the investigation and all relevant materials. The OPCC determined that the disciplinary measure imposed at the prehearing conference was both correct and appropriate with respect to the circumstances.

Therefore, the agreement reached at the prehearing conference was approved and the OPCC issued a Conclusion of Proceedings.

Registered Complaint
Substantiated - Abuse of Authority
Substantiated - Neglect of Duty
OPCC 2010-5401

The complainant reported that she suffers from cerebral palsy and multiple sclerosis which causes her to be unsteady on her feet and walk with a noticeable gait. The complainant was walking down the street when three police officers, walking side by side, approached in the opposite direction. As the complainant and the three officers approached each other, a gap was created and the complainant was able to walk through. While passing the officers, the complainant was pushed by one of the officers, causing her to fall to the ground. When challenged by a female witness, the officer advised that the complainant had grabbed or attempted to grab his police duty pistol. All three officers eventually walked away and the complainant was helped to her feet by the female witness.

Although this incident was reported to the respondent officer's police department, the police department did not inform the OPCC. Furthermore, the police department did not adequately facilitate the complainant's access to the police complaint process.

The OPCC first received notice 19 days after the incident when the complainant registered a complaint with this office. The OPCC reviewed the circumstances as outlined in the complaint and determined it to be admissible for allegations of *Abuse of Authority* and *Neglect of Duty* the following day.

The Commissioner was concerned with how the officer's police department initially handled this matter and believed it was in the public interest for the *Police Act* investigation to be conducted by an external police department. A request was also made by the police department for an external agency to conduct the investigation.

The external police department's Major Crime Unit submitted a report to Crown Counsel recommending a charge of assault against the respondent officer. The branch approved one count of common assault contrary to section 266 of the *Criminal Code*. The *Police Act* investigation was suspended as a result.

Crown counsel subsequently entered a stay of proceedings for the assault charge and the *Police Act* investigation suspension was lifted.

At the end of the *Police Act* investigation, the external investigator submitted a Final Investigation Report to the discipline authority. After review, the discipline authority rejected the report and ordered further investigation.

After completing the further investigative steps, the Final Investigation Report was resubmitted. The discipline authority accepted the report and determined that based on the evidence the allegations of *Abuse of Authority* and *Neglect of Duty* had been substantiated.

The officer was offered a prehearing conference. After reviewing the prehearing conference Agreement Report, the OPCC rejected it, noting that the proposed discipline of one-to-one Use of Force Training and a one-day suspension without pay did not adequately reflect or address the seriousness of the misconduct. The matter was remitted to a Discipline Proceeding.

After the Discipline Proceeding, the discipline authority determined that the allegations of *Abuse of Authority* and *Neglect of Duty* had been substantiated and proposed a one-day suspension for each of the allegations.

The Commissioner determined that an 11-month delay in convening a Discipline Proceeding and the manner in which the Discipline Proceeding was conducted, undermined the public's confidence in the police complaint process. Furthermore, the Commissioner found that the discipline proposed was inadequate to address the seriousness of this incident and as a result, the Commissioner ordered a Public Hearing.

At the conclusion of the Public Hearing, the Adjudicator determined that the appropriate discipline for the substantiated allegation of *Abuse of Authority* was a three-day suspension and the appropriate discipline for the substantiated allegation of *Neglect of Duty* was a three-day suspension. The suspensions were to be served consecutively.

(The Adjudicator's Reasons for Decision in relation to Public Hearing 2013-05 can be found at www.opcc.bc.ca)

Registered Complaint
Unsubstantiated – Abuse of Authority
OPCC 2013-8989

The complainant reported, in part, that she was out walking with her husband when two police officers rushed out of the alley, calling out, "Hey, you, stop!" Not realizing that she was the focus of their attention, the complainant continued to walk on. One of the officers reached out, grabbed her arm and accused her of being a drug dealer. The complainant demanded the officer release her arm, but he refused. The officer then began to search the complainant's purse and pockets without asking permission.

The OPCC reviewed the circumstances as outlined in the complaint and determined that the conduct alleged would, if substantiated, constitute misconduct, specifically, *Abuse of Authority* for using unnecessary force, conducting an unlawful search and for oppressive conduct. The complaint was forwarded to the police department for investigation.

At the conclusion of the *Police Act* investigation, the discipline authority determined that there was no evidence upon which to support the allegation of *Abuse of Authority* and concluded the complaint as unsubstantiated.

In his decision, the discipline authority noted the significant and unsuccessful efforts that were made in trying to obtain further information from the complainant. The discipline authority further noted that the investigator provided a comprehensive analysis of applicable case law and legislation, in conjunction with the department's Regulations and Procedures. The *Police Act* investigator also explored the use of investigative detention and the requirement of articulable cause and reasonable justification.

The complainant was informed that if she was not satisfied with the decision, she could file a written request with the Commissioner for a section 117 review to be conducted by a retired judge. Such a request must be filed within ten business days of receipt of the discipline authority's decision. The complainant did not exercise her right to request a review; however, to promote accountability in the complaint process, all discipline authority decisions are reviewed by the OPCC, regardless of whether a request has been made.

The OPCC determined that, based on a review of the available evidence, the discipline authority appropriately determined the allegation of *Abuse of Authority* to be unsubstantiated. There were divergent versions of what occurred and there were no independent witnesses. There was no available video, and the complainant unfortunately chose not to participate in the investigation despite repeated requests for an interview. The OPCC was left with a degree of uncertainty and determined that there was not a reasonable basis to believe the decision of the discipline authority was incorrect in this matter. Therefore, there was not a basis to appoint a retired judge to review this matter. The OPCC issued a Conclusion of Proceedings and closed the file.

Ordered Investigation (request by department)
Substantiated – Abuse of Authority
OPCC File 2012-7482

Pursuant to section 89 of the *Police Act*, the police department first reported this matter to the OPCC as a Reportable Injury. The circumstances described were that a female was arrested for State of Intoxication in a Public Place. The female was handcuffed and while being placed into the police vehicle for transport, the female kicked the door of the police vehicle. Upon being told not to kick the door, the female informed the officer that she would kick him and proceeded to kick the officer in the leg. The officer immediately struck the female one time in the face with his hand. The female sustained a swollen upper lip and a bleeding nose. The female was treated at the scene by Emergency Health Services and released back into police custody. The officer reported the incident to the watch commander for the shift.

After reviewing the incident, the police department's senior management team requested an external department conduct a criminal investigation into the actions of the officer. In addition, the police department submitted a *Request for an Ordered Investigation* pursuant to section 93(1) of the *Police Act* to the OPCC.

The OPCC issued an Order for Investigation pursuant to section 93(1) with the alleged misconduct identified as *Abuse of Authority*.

The police department subsequently submitted a request for a Suspension of Proceedings pursuant to section 179(4) of the *Police Act* with respect to the *Police Act* investigation, advising that the criminal investigation had begun and the continuance of the *Police Act* investigation would potentially prejudice the criminal investigation. The OPCC granted the suspension.

At the conclusion of the criminal investigation into this matter, a Report to Crown was submitted.

Crown Counsel elected not to proceed with criminal charges against the officer. As such, the suspension of the *Police Act* investigation was lifted.

Based on the Final Investigation Report, the discipline authority determined that the evidence appeared to substantiate the allegation of *Abuse of Authority* and offered the officer a prehearing conference. An agreement was reached whereby the officer accepted the disciplinary and corrective measures of advice as to future conduct and direction to review use of force and arrest policy with a trained use-of-force instructor.

The OPCC reviewed the prehearing conference authority's report and all relevant information including investigation materials.

The OPCC approved the agreement reached at the prehearing conference and issued a Conclusion of Proceedings.

Ordered Investigation (request by department)
Unsubstantiated – Abuse of Authority
OPCC File 2013-9250

The police department submitted a Request for an Ordered investigation pursuant to section 93(1) of the *Police Act* to the OPCC, reporting that an off-duty officer was at a pub when a male patron refused to leave after being requested to by the bartender. The male patron subsequently resisted the bartender's attempts to remove him physically. Without being asked, the off-duty officer stepped in to assist, ordered the male to leave and then attempted to physically escort him out of the premises. While being escorted out, the male pushed the off-duty officer who then punched him three times in the head. Following the event, the off-duty officer explained his actions to the male patron's friends and identified himself as an off-duty police officer. Police attended and spoke with both parties. Police did not recommend any criminal charges.

The circumstances as outlined above were reviewed by the OPCC and an Order to Investigate was issued identifying the alleged misconduct as *Discreditable Conduct* which is when on or off duty, conducting oneself in a manner that the officer knows, or ought to know, would be likely to bring discredit on the municipal police department.

Based on the Final Investigation Report, the discipline authority determined that the evidence did not support a finding of misconduct and concluded this matter as unsubstantiated.

The discipline authority determined that the respondent officer intervened out of a concern for the safety of a staff member of the pub and that he was "measured in his use of force, justified in defending himself and did not use any force beyond what was reasonable given all of the circumstances." The discipline authority found that if the respondent officer had not intervened and the server was assaulted, "the discredit to the police department would have been considerable given the proximity to two police officers."

The OPCC reviewed all of the available evidence, and determined that it was clear that pub staff requested a patron of the pub to leave several times as a result of his behaviour and level of intoxication. This patron did not leave the pub. As a result, this patron was in contravention of section 46 of the *BC Liquor Control and Licensing Act* and was required to leave the establishment.

However, the respondent officer was not required or obligated to assist with the removal of the male patron from the pub. Pub staff did not seek out the assistance of the respondent officer or any other patrons of the pub that evening. The evidence was unclear as to what the server stated to prompt the respondent officer to intervene and take action. The respondent officer stated he was concerned an assault or sexual assault was taking place as he observed an altercation between the server and the patron, and heard the server say, "don't touch me." The server denied making this statement, but did state she told the patron to get away from her. Other witnesses who were with the respondent officer that evening reported hearing the server state "don't touch me." There were no independent witnesses outside the two parties involved and interview and video evidence did not assist in providing clarity to this issue.

Recognizing the circumstances leading up to the use of force by the respondent officer, including the actions of this pub patron and the close presence of a number of friends who were with this patron, there was a significant degree of uncertainty with respect to the proportionality of force used by the respondent officer, regardless of his stated motivation and intention. This Office had considerable concern with the response of the respondent officer; however, based on the totality of the circumstances, we were of the view that there did not exist sufficiently clear, convincing and cogent evidence that establishes on a balance of probabilities that the respondent officer committed the misconduct of *Discreditable Conduct*. Therefore, there was not a basis to appoint a retired judge to review this allegation.

The OPCC issued a Conclusion of Proceedings and closed the file.

Ordered Investigation (Initiated by PCC)
Substantiated – Neglect of Duty
OPCC File 2014-9436-03

Pursuant to section 89 of the *Police Act*, the police department first reported this matter to the OPCC as a Reportable Injury. The circumstances described were that a collision occurred between a police vehicle and a taxi, resulting in significant damage to the vehicles, likely writing off both vehicles. The collision also caused injuries to the occupants of both vehicles.

The OPCC reviewed all relevant information and determined that the described injuries did not constitute serious harm.

However, based on information provided, the Commissioner ordered an investigation pursuant to section 93(1) of the *Police Act* to determine whether the police officer committed *Neglect of Duty*, in relation to the allegation that the respondent officer failed to stop at a red light and caused the collision.

Subsequent to the *Police Act* investigation, the discipline authority issued a decision wherein he determined that the evidence did not support the allegation of *Neglect of Duty*.

Having reviewed all of the relevant information, the Commissioner believed that there was a reasonable basis to believe that the decision of the discipline authority was incorrect and ordered a section 117 review.

The Final Investigation Report and the evidence and records referenced in it were supplied to the Honourable Wally Oppal, a retired judge, who arrived at his own decision based on the evidence. Mr. Oppal determined that the conduct of the respondent officer appeared to constitute *Neglect of Duty* and Mr. Oppal became the disciplinary authority. Mr. Oppal offered the respondent officer a prehearing conference with the proposed discipline of a Verbal or Written Reprimand.

The Commissioner designated Deputy Chief Constable Almas to perform the duties of the prehearing conference Authority. An agreement was reached for the respondent officer to accept a verbal reprimand as the formal discipline with respect to the substantiated *Neglect of Duty*.

The OPCC was of the view that the discipline authority's decision in relation to the discipline measures imposed at the prehearing conference was correct and adequate, and issued a Conclusion of Proceedings.

(The Adjudicator's Reasons for Decision and Conclusion of Proceedings in relation to this section 117 review 2014-9436-03, can be found at www.opcc.bc.ca)

Section 111 of the *Police Act* authorizes that the Commissioner may report to Crown counsel any matter when the Commissioner considers that the conduct of the officer under investigation may constitute an offence created under any enactment, including an enactment of Canada or another province.

The OPCC conducted a comprehensive assessment of the available evidence in this matter, and the Commissioner determined that the conduct of the respondent officer may constitute an offence under the *Motor Vehicle Act of British Columbia*.

The Commissioner requested that the Criminal Justice Branch undertake a charge assessment in relation to this matter and forwarded a Report to Crown counsel.

Ordered Investigation (Initiated by PCC)
Unsubstantiated – Abuse of Authority
OPCC File 2013-8424

Pursuant to section 89 of the *Police Act*, the police department first reported this matter to the OPCC as a Reportable Injury. The circumstances described were that a police officer and his police service dog observed a male waiting for a bus. Based on the police officer's observations of the male from the previous day and information he had received from another officer, the respondent officer was of the belief that the male was arrestable for two counts of breach of probation (no contact and curfew). The police service dog was deployed to affect the arrest of this male. The male sustained puncture wounds to his right thigh and was transported to hospital for further treatment.

The OPCC reviewed all relevant information and determined that the described injury did not constitute serious harm. However, based on information in the Notice of Reportable Injury, the Commissioner ordered an investigation pursuant to section 93(1) of the *Police Act* to determine whether the police officer committed *Abuse of*

Authority, by intentionally or recklessly using unnecessary force on a person.

The initial investigation was conducted by the respondent officer's police department and a Final Investigation Report was submitted. Upon review of the Final Investigation Report (FIR), the Commissioner, in consultation with the discipline authority, rejected the FIR and directed further investigation. The Commissioner determined it was necessary, in the public interest, for an external police agency to complete the investigation and also designated an external discipline authority.

The external investigator completed the directed investigative steps, and based on the report's findings, the discipline authority determined that the evidence did not appear to substantiate the allegation of *Abuse of Authority* and concluded the investigation as unsubstantiated.

The OPCC was satisfied that the external discipline authority appropriately determined that the evidence did not appear to substantiate the allegation of *Abuse of Authority*. However, the OPCC arrived at this conclusion for different reasons than the external discipline authority.

The police officer stated that he observed the male breaching his no-contact condition on the previous day, a fact corroborated by the male in his interview. Evidence from another police officer indicated that the male had breached his curfew condition as well. Therefore, the respondent officer had the lawful authority to arrest the male and to use as much force as was reasonably necessary in the circumstances to satisfy that lawful objective. The assessment of whether an officer used unnecessary force requires both a subjective and objective analysis, taking into account the unique circumstances of each incident.

In assessing whether deploying the police service dog was necessary, it is important to note that the male and the police officer provided markedly different accounts of the circumstances of the deployment. However, there was no independent evidence to corroborate either version.

Therefore, an assessment of credibility and reliability was necessary.

In this case, there was no evidence to suggest that the police officer lacked credibility. With respect to the involved male's credibility, the OPCC noted that during his interview, he made statements against his own self-interest, including admitting to breaching his no-contact condition. Such admissions serve to bolster a witness's credibility.

With respect to reliability, the evidence did not reveal any hindrances to either party being able to accurately recall the incident.

Based on the foregoing, the OPCC was of the view that there was insufficient evidence to conclude, on a balance of probabilities, that the involved male's version of events should be preferred over the respondent officer's version of events. However, even if one accepts the respondent officer's version, it is still necessary to determine whether his subjective belief that it was necessary to deploy his police service dog to prevent the male's flight was objectively reasonable.

In assessing whether that belief was objectively reasonable, the OPCC was mindful of the decision from retired Provincial Court Judge Hutchinson in the *Police Act* Public Hearing 2008-01, into a complaint against Constable Greg Smith of the Victoria Police Department (January 28, 2009), wherein Adjudicator Hutchinson wrote:

The proper test in a case involving s. 10(b) of the Code of Professional Conduct Regulation can be concisely stated. It is whether the force that was used – both in its nature and its application - was necessary in all the circumstances when viewed from the perspective of a reasonable police officer in the position of the respondent.

The test must be applied based on the particular circumstances facing a police officer, and cannot be based purely on hindsight. The test requires the person evaluating the police conduct to make proper allowances for the exigent circumstances faced by police officers and the reality that officers facing legitimate threats cannot be expected to measure force to a nicety.

At this stage, it is important to note that the external discipline authority's consideration of the risks created by a physical altercation was not supported by the evidence. Neither the respondent officer nor any members of the surveillance team indicated that the male had fought police in the past. In fact, the respondent officer indicated that he had dealt with the male on five or six previous occasions and gave no indication of any physical resistance.

The material question was: when viewed from the perspective of a reasonable officer in the same position, was it reasonable to conclude that the male was about to flee and that deploying the police service dog was necessary to prevent that flight? In this regard, the OPCC agreed with the analysis provided by the external investigator, who noted that the respondent officer provided "a

well-articulated explanation of his experience, his thought process, his considerations, his communications and his intent." The external investigator further noted that the respondent officer did not plan to deploy his police service dog, but felt it necessary based on the male's actions. The respondent officer had given clear and concise commands, which were ignored. Upon assessing all of the circumstances, he believed that the male was about to flee and that waiting for the flight to occur would increase the risks to the male, the police service dog and the public.

Upon review of the evidence obtained in the investigation, particularly the follow-up investigation by the external investigator, it was the OPCC's view that there did not exist sufficiently clear, convincing and cogent evidence that established on a balance of probabilities that the respondent officer's conduct fell outside of the conduct that would be expected from a reasonable officer in the same position. The OPCC issued a *Conclusion of Proceedings* and closed the file.

Service or Policy

2014-9575

The complainant was arrested and his property was stored for safekeeping while the complainant was held overnight in a municipal jail. The following day, the complainant was transferred to a pretrial centre where he was held for three months.

Upon his release, the complainant attended the municipal police department to retrieve his property and was informed the policy was to only hold property for 30 days before it was disposed of. The complainant was concerned that he was not contacted at the pretrial centre prior to this occurring.

The OPCC determined this to be a service or policy complaint and forwarded it to the department's Police Board for processing in accordance with Division 5 of the *Police Act*.

The Police Board reviewed the policy complaint and directed the Chief Constable to investigate the matter and to submit a report for the Board's consideration.

After reviewing the Chief Constable's report, the Chair of the Service and Policy Complaint Review Committee noted: "the investigation disclosed deficiencies in the policies and procedures of the Property Office". The Chair advised that there are a number of changes to the practices and policy that have occurred, or were going to occur that would minimize the chances that such disposal of property occurs again:

- *The Property Office will now hold such property for 90 days as opposed to 30;*
- *The Jail Arrest Report has been amended to include a section that records that the arresting officer has informed the arrested person that they have property held for safekeeping at the Property Office;*
- *The Property Notice form has been amended to specify that the property will be held for 90 (as opposed to the previous 30) days;*
- *A copy of the Property Notice will be retained by the Jail and kept with the Jail Arrest Report. The original goes to the prisoner when released by the municipal police department;*
- *When a prisoner who has property in the Property Office is transferred to another detention facility, a notice will be sent with the prisoner's personal effects advising that facility's staff that action is required; and*
- *All relevant policies and procedures will be revised to reflect the new practice.*

The complainant was advised of his right to request a review of the matter by the OPCC if he disagreed with the Board's decision. The complainant did not exercise this right.

The OPCC examined the Board's decision, and was satisfied with the outcome and did not make any recommendations for further investigation, study, courses of action or changes to service or policy respecting this particular matter. The file was closed.

The complainant filed a claim for compensation with the City.

Internal Discipline
Substantiated Discreditable Conduct
2014-9798

Two police officers wrote an increment exam which they needed to pass to become First Class Constables. The exam was supervised by an Acting Sergeant in the Patrol Branch.

The two officers were placed in a room together and the Acting Sergeant left, dropping in a few times to check on the officers.

As the officers got a number of the same answers wrong by selecting the same incorrect answers, Human Resources called them and asked if they had discussed some of the questions and answers. Both officers stated that they had done so.

The matter was brought to the attention of the Chief Constable who directed that an investigation under the Internal Discipline Procedure be conducted.

Based on the findings contained in the investigation report, the Chief Constable found that although the Human Resources branch of the police department viewed the increment exam as an important part of the process for developing a new officer, patrol officers, including some senior officers, had come to see it as more of a review that was not to be taken seriously.

Under the department's collective agreement, if an officer failed the exam, they would be required to re-write the exam within 60 days. It had become the practice to have officers re-write the exam in their next block of working shifts.

The Chief Constable found this relaxing of standards to be unacceptable. He tasked Human Resources to bring a proposal to the management table that changed how the exam was treated within the department.

Going forward, this exam was to be taken seriously. How the exam was treated, the content and the consequences of failing it would be revised so this type of situation would not be repeated. Officers would not re-write the same exam if they failed on the first attempt. They would have to show that they had mastered the material relevant to being a First Class Constable.

Given the culture that had developed in relation to the taking of the increment exam, and considering that both officers had been forthcoming when asked about the exam, the Chief Constable, as discipline authority, substantiated the allegation of *Discreditable Conduct* and proposed the discipline of a Verbal Reprimand which he would issue personally.

The Chief Constable would be putting all officers on notice that this behaviour would be treated very seriously if were to occur in the future.

You can see the *Police Act* in its entirety at:
http://www.bclaws.ca/civix/document/id/complete/statreg/96367_01

SUBSTANTIATED ALLEGATION SUMMARIES

The following table provides summaries of all *substantiated* allegations against municipal officers which were concluded between April 1, 2014, and March 31, 2015.

Abbotsford Police Department

Ordered Investigation — OPCC File 2013-8793 — Date of Incident: 2013 11 08
Requested by the department

The police officer failed to comply with an order, given both verbally and in writing, to have no contact with an individual.

Misconduct: *Neglect of Duty* - failure to follow a supervisor's lawful order

Discipline: Verbal reprimand

Ordered Investigation — OPCC File 2013-8948-01 — Date of Incident: 2013 07 12
Requested by the department

The police officer was working with an undercover team collecting evidence on a licensed premises. At the conclusion of the operation, the police officer's firearm was returned to him by the officer assigned to hold all of the undercover officers' firearms during the operation.

The police officer removed the firearm from its holster to conduct a safety check. In doing so, the muzzle of the firearm was pointed in an unsafe direction in a room full of police officers for a few seconds.

Misconduct: *Improper Use or Care of Firearms*

Discipline: Training in the correct handling of firearms in locations such as staff locker rooms, the office and any other settings where people may be around while a firearm is being handled

Internal Discipline — OPCC File 2013-9033-01 — Date of Incident: 2013 08 28

The police officer became involved in a motor vehicle accident when he attempted to perform a low speed U-turn at an intersection. No one was injured as a result of the low-speed collision.

Misconduct: *Neglect of Duty* - dangerous driving

Discipline: Written reprimand

Mandatory driver training was scheduled to be provided to all APD police officers the coming year. If this had not been planned, the officer would have been assigned to participate in driver training from another source. Human Resources was to confirm that the police officer was scheduled to participate in the first offering of this training, and to confirm that the training content addressed the driving issues identified in this review.

Internal Discipline — OPCC File 2013-9033-02 — Date of Incident: 2013 03 17

The police officer was responding to a call that could justify an emergency response; however, the police officer failed to take all the steps required when exercising the privileges of a code 3 emergency response, resulting in a single-vehicle accident. No one was injured as a result of the accident, but the officer was unable to attend the call.

Misconduct: *Neglect of Duty* - dangerous driving

Discipline: Written reprimand

Mandatory driver training was occurring for all APD police officers in 2014. If this were not planned, the police officer would have been assigned to participate in driver training from another source. Human Resources was to confirm that the police officer was scheduled to participate in the first offering of this training, and to confirm that the training content addressed the driving issues identified in this review.

Ordered Investigation OPCC File 2013-9280 Date of Incident: 2011 11 17
Requested by the department

On November 17, 2011, the police officer attended a single motor vehicle accident. It was determined that the police officer failed to complete an MV6020 (British Columbia Motor Vehicle Traffic Accident Police Investigation Report); failed to make proper notes regarding the accident and/or injuries sustained by the driver; and failed to include important details regarding the accident in the PRIME report.

Officers are required to respond to citizens' reasonable requests for information about a police incident as part of their service to the public. Failing to respond to a single message can often be a simple error. However, in this matter, the officer failed to respond to numerous requests for a return call from both a member of the public and a professional in another agency.

Misconduct: *Neglect of Duty* x 2 - inadequate investigation and failure to provide assistance

Discipline: Verbal reprimand and one-day suspension without pay

Ordered Investigation OPCC File 2014-9447 Dates of Incident: Multiple
Requested by the department

The police officer became involved in a relationship with another individual who was being assessed by the officer for employment with the department.

The police officer used his police-issued cell phone for a purpose unrelated to his duties as a police officer.

During the course of his duties, the police officer acted in an unprofessional manner with female staff members at a restaurant.

Misconduct 1: *Discreditable Conduct* - conduct that discredits the department

Discipline: One-year reduction in rank, with supervisory and mentorship conditions for the first three months and further conditions to apply throughout the year as well as ethics-based training, including training around power imbalances and issues around gender equality

Misconduct 2: *Discreditable Conduct* - using or attempting to use any equipment or facilities of a municipal police department, or any other police force or law enforcement agency, for purposes unrelated to the performance of duties as an officer

Discipline: Two-day suspension without pay

Misconduct 3: *Corrupt Practice* - conduct that discredits the department

Discipline: Six-day suspension without pay to be served consecutively to the two-day suspension

Internal Discipline OPCC File 2014-9765 Date of Incident: 2014 04 23

The police officer failed to wear the required WorkSafeBC high-visibility vest while on duty as a Bike Squad member.

Misconduct: *Neglect of Duty* - failure to comply with departmental policy/regulations

Discipline: Verbal reprimand

As a result of this incident, all officers received a reminder of the high-visibility vest requirement.

Internal Discipline OPCC File 2014-9798 Date of Incident: 2014 07 20

On July 20, 2014, two police officers wrote an increment exam which they needed to pass to become First Class Constables. During the exam, the officers discussed some of the questions and answers.

Misconduct: *Discreditable Conduct* - disorderly conduct prejudicial to the maintenance of discipline in the department

Discipline for Officers 1 and 2: Verbal reprimand

The two officers admitted to discussing the exam questions and answers. The discipline authority substantiated the allegation of discreditable conduct and noted that there was a relaxing of standards in relation to the writing of this exam. Although the Human Resources department viewed the increment exam as an important part of the process for developing a new officer, many officers had come to see it as more of a review that was not taken seriously.

In addition to verbally reprimanding the two officers, the discipline authority tasked the HR Department with providing a proposal to management that would change how this exam was treated within the department to prevent a similar future occurrence. Further, the discipline authority noted that he would be advising all officers that this behaviour would be treated very seriously if it were to reoccur.

Internal Discipline OPCC File 2014-9904 Date of Incident: 2014 03 27

The police officer was disrespectful to a supervisor.

Misconduct: *Discreditable Conduct* - disorderly conduct prejudicial to the maintenance of discipline in the department

Discipline: Verbal reprimand

Central Saanich Police Service

No substantiated misconduct in this reporting period

CFSEU (Combined Forces Special Enforcement Unit)

No substantiated misconduct in this reporting period

Delta Police Department

Registered Complaint OPCC File 2011-6804 Date of Incident: 2011 09 17

On September 17, 2011, the complainant and his friend were stopped by two police officers for not wearing bicycle helmets. The complainant filed a registered complaint in relation to the conduct of the officers during the incident. This complaint became the subject of Public Hearing 2013-03. The decision can be found at www.opcc.bc.ca.

Misconduct: *Neglect of Duty* - inadequate documentation/notes/records

Discipline for Officers 1 and 2: Written reprimand

During the *Police Act* investigation into the complaint, the Office of the Police Complaint Commissioner raised concern about the two officers' lack of reporting in this matter and an allegation of *Neglect of Duty* to the investigation.

Ordered Investigation OPCC File 2012-7970 **Dates of Incident: Multiple**
Requested by the department

It was reported that between January 2012 and August 2012, there were several occasions when a police officer, while acting in a supervisory position, acted in an inappropriate manner with female volunteers from the North Delta Community Police Station.

Misconduct: *Discreditable Conduct* x 3 - conduct that discredits the department

Discipline: Four-day suspension without pay for each count to be served consecutively for a total of a 12-day suspension, direction to counselling and direction to attend a course related to workplace harassment

Ordered Investigation OPCC File 2014-9326 **Date of Incident: 2014 01 03**
Requested by the department

A police officer was part of a plainclothes surveillance detail. The police officer left the surveillance detail for a washroom break at a service station. At the time, the police officer was carrying a bag which contained his firearm, other police equipment and personal property. The police officer left his bag with the firearm in the washroom and drove away. The property was later recovered by police.

Misconduct: *Improper Use or Care of Firearms* - unsafe storage of a firearm

Discipline: Written reprimand

Ordered Investigation OPCC File 2014-9331 **Dates of Incident: Multiple**
Requested by the department

A police officer disclosed to his supervisor that he accessed the PRIME database for personal reasons.

Misconduct: *Unauthorized Use of Police Facilities/Resources* - unauthorized search of CPIC/PRIME

Discipline: Written reprimand

Internal Discipline OPCC File 2014-9492 **Dates of Incident: Multiple**

The police department installed a software program on police vehicles that disables the keyboard and touch-screen feature of the mobile data terminal at pre-determined speeds. The software program was designed to prevent incidents of distracted driving for the protection of the officer and members of the public.

It was reported that various police officers either modified the program, were present when it was modified, or were aware of the modification to a patrol vehicle for which they were responsible.

Misconduct: *Damage to Police Property*

Discipline for Officers 1 through 10: Advice to future conduct

The discipline authority also recommended that the officers review and sign off on related policy and that the department develop policy specific to the software and its operation with consideration to allowing the modification of settings in a two-person patrol car where the passenger would operate the terminal.

Nelson Police Department

No substantiated misconduct in this reporting period

New Westminster Police Department

Ordered Investigation OPCC File 2012-7482 Date of Incident: 2012 05 10
Requested by the department

On May 10, 2012, a police officer attended a call regarding an intoxicated female and placed the female under arrest for being intoxicated in a public place. While the female was being escorted from the premises, she kicked out and struck the police officer with her foot. The police officer struck the female with a closed fist to the face while she was handcuffed.

Misconduct: *Abuse of Authority* - excessive force using empty hand

Discipline: Advice to future conduct and review of Use of Force and Arrest Policy with a trained use-of-force instructor

Internal Discipline OPCC File 2013-9131 Dates of Incident: Multiple

The department conducted a review of an officer's investigations and found one investigation to be lacking and two others to have not been completed in a timely manner.

Count 1: The police officer failed to conduct a theft investigation in a timely manner.

Count 2: The police officer neglected to comply with department policy regarding exhibit handling.

Count 3: The police officer neglected to locate a possible spousal assault victim in a prompt manner.

Misconduct Count 1: *Neglect of Duty* - inadequate investigation

Discipline: Verbal reprimand and Letter of Expectation as to future performance

Misconduct Count 2: *Neglect of Duty* - failure to comply with departmental policy

Discipline: Verbal reprimand and Letter of Expectation as to future performance

Misconduct Count 3: *Neglect of Duty* - inadequate investigation

Discipline: Verbal reprimand and a letter of expectation as to future performance

Ordered Investigation OPCC File 2013-9166 Dates of Incident: 2013 08 13
Requested by the department

A police officer responded to a report of a residential alarm. The police officer found the front door unlocked and no one home. After searching the entire residence and finding nothing disturbed, the police officer concluded that the matter was one of user error. The police officer left the residence without ensuring the front door lock was engaged.

Misconduct: *Neglect of Duty* - inadequate investigation

Discipline: Written reprimand

Ordered Investigation OPCC File 2014-9330 Date of Incident: 2014 01 05
Requested by the department

A police officer was off duty and out for an evening with friends in another police department's jurisdiction. The off-duty police officer and members of his party became involved in a physical altercation with other individuals. During the altercation, the off-duty officer identified himself as a police officer.

Police attended the location and diffused the matter. The off-duty police officer left the scene prior to giving any additional information to the on-duty officers, but he did notify his supervisor at his department. When later contacted by the other jurisdiction's officers, he was cooperative in regards to the investigation.

Misconduct: *Discreditable Conduct* - conduct that discredits the department

Discipline: Two-day suspension without pay

Internal Discipline OPCC File 2014-9409 Date of Incident: 2013 06 02

The police department received a request for assistance in relation to an altercation between several intoxicated people.

Officer 1 responded "code 3" with her police vehicle's emergency lights and siren activated. During her response, Officer 1 lost control of her police vehicle, striking a guard rail on the roadway. No one was injured as a result of the accident.

It was determined that Officer 1 failed to comply with section 122(1) of the *Motor Vehicle Act* and Emergency Vehicle Driving Regulation.

Officer 2 responded "code 3" to the same incident. A review of GPS records determined that Officer 2 operated his police vehicle in a manner that was not compliant with section 122(1) of the *Motor Vehicle Act* and Emergency Vehicle Driving Regulation.

Misconduct by Officer 1: *Neglect of Duty* - dangerous driving

Discipline: One-day suspension without pay; requirement to review the provisions of the *Motor Vehicle Act* as it pertains to Emergency Vehicle Operations with a Training Supervisor

Misconduct by Officer 2: *Neglect of Duty* – dangerous driving

Discipline: Written reprimand; requirement to review the provisions of the *Motor Vehicle Act* as it pertains to Emergency Vehicle Operations with a Training Supervisor.

Ordered Investigation OPCC File 2014-10068 Date of Incident: 2014 10 13
Requested by the department

While off duty and under the influence of alcohol, a police officer attended a female's residence uninvited, causing the female concern.

Misconduct: *Discreditable Conduct* - conduct that discredits the department

Discipline: A reduction in rank for a period of eight months; requirement to undertake professional counselling and/or medical treatment as deemed necessary and the officer was to submit any updates to the Chief Constable upon request over a period of 18 months; work under close supervision; work assignment to be at the discretion of the Chief Constable or his designate

Oak Bay Police Department

No substantiated misconduct in this reporting period

Port Moody Police Department

No substantiated misconduct in this reporting period

Saanich Police

Ordered Investigation OPCC File 2014-9491 Date of Incident: 2014 03 10
Requested by the department

An off-duty officer was arrested in relation to a domestic dispute. Although the officer's wife later recanted her version of events, the discipline authority found that the officer's behaviour towards the investigating officers fell well short of both organizational expectations and those of the public.

Misconduct: *Discreditable Conduct* - conduct that discredits the department

Discipline: Written reprimand

Internal Discipline OPCC File 2014-9588 Date of Incident: 2014 01 13

An officer failed to attend traffic court and as a result, a stay of proceedings was entered into the matter.

Misconduct: *Neglect of Duty* - failure to attend court

Discipline: Advice to future conduct

Ordered Investigation OPCC File 2014-9762 Date of Incident: 2014 05 24
Registered Complaint

An officer behaved in a discourteous manner while attending a call for service regarding a noise complaint.

Misconduct: *Discourtesy* - discourteous conduct

Discipline: Written reprimand

Transit Police Service (SCBCTAPS)

Ordered Investigation OPCC File 2011-6930 Date of Incident: 2011 09 18
Requested by the department

An officer placed an elderly woman in handcuffs in a manner that caused concern. The woman was not manhandled or injured, but was emotionally upset.

Misconduct: *Abuse of Authority* - excessive force – handcuffs

Discipline: One-day suspension without pay

Ordered Investigation OPCC File 2013-9070 Date of Incident: 2013 09 22
Requested by the department

An off-duty officer was stopped at a roadblock. The off-duty officer provided two breath samples into two separate Approved Screening Devices, both of which produced a Fail result. The off-duty officer was issued an Immediate Roadside 90-day Prohibition and his vehicle was impounded for 30 days.

During the course of the traffic stop, the off-duty officer identified himself as a police officer in an effort to get the investigating officers to use their discretion.

Misconduct 1: *Discreditable Conduct* - conduct that discredits the department

Discipline: Five-day suspension without pay

Misconduct 2: *Discreditable Conduct* - conduct that discredits the department

Discipline: Two-day suspension without pay to be served consecutively with the five-day suspension

Ordered Investigation OPCC File 2014-9574 Date of Incident: 2014 04 08
Requested by the department

An officer left her duty belt and firearm in a police department washroom unattended for approximately 30 minutes before it was found by cleaning staff.

Misconduct: *Improper Use or Care of Firearms* - unsafe storage of firearm

Discipline: Written reprimand

Internal Discipline OPCC File 2014-9579 Date of Incident: 2013 01 02

Three police officers breached the department's Respectful Workplace Policy by making offensive and derogatory remarks during a squad briefing that caused awkwardness, embarrassment and humiliation to a female police officer.

The police officers' supervisor also breached the department's Respectful Workplace Policy in two ways: failing to create and maintain a workplace that was free from discrimination and, as the supervisor in charge, failing to stop the behaviour as soon as it started.

Misconduct: *Discreditable Conduct* - disorderly conduct prejudicial to the maintenance of discipline in the department

Discipline for Officers 1, 2 and 3: Two-day suspension without pay; further training with respect to the department's Respectful Workplace Policy; one-on-one meeting with the Chief and/or Deputy Chiefs after the training to ensure that the officers gained an understanding of the policy

Discipline for Officer 4 (supervisor): Two-day suspension without pay; further training with respect to the

	department's Respectful Workplace Policy; one-on-one meeting with the Chief and/or Deputy Chiefs after the training to ensure that the police officer gained an understanding of the policy

Internal Discipline OPCC File 2014-9583 Dates of Incident: Multiple

In the course of investigating an unrelated matter, it was determined that two police officers' emails on their computers contained images and jokes that contravened the employer's Acceptable Use of Corporate Computing Systems and Respectful Workplace policies.	**Misconduct**: *Discreditable Conduct* - conduct that discredits the department **Discipline for Officer 1**: Written reprimand **Discipline for Officer 2**: One-day suspension without pay

St'at'imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver Police Department

Registered Complaint OPCC File 2010-5401 Date of Incident: 2010 06 09

The Office of the Police Complaint Commissioner received a registered complaint reporting, in part, that a police officer pushed a woman with cerebral palsy to the ground and walked away without apologizing or offering assistance. The discipline authority determined that the investigation into the matter appeared to support the allegations of *Abuse of Authority* and *Neglect of Duty* and offered the member a Pre-hearing Conference. The OPCC rejected the Prehearing Conference Agreement noting that the proposed discipline of one-to-one use-of-force training and a one-day suspension was inadequate in the circumstances. The matter was remitted to a Discipline Hearing wherein the discipline authority substantiated the allegations of *Abuse of Authority* and *Neglect of Duty* and proposed a one-day suspension for each substantiation. The Police Complaint Commissioner determined that a Public Hearing into this matter was required as he was of the view that proposed discipline at both the prehearing conference and the Discipline Proceedings was inadequate to address the seriousness of the incident. As a result of a Public Hearing, the Adjudicator determined that one count of *Abuse of Authority* and one count of *Neglect of Duty* had been proven. The Adjudicator's Reasons for Decision in relation to Public Hearing 2013-05 can be found at www.opcc.bc.ca.	**Misconduct 1**: *Abuse of Authority* - excessive force – empty hand **Discipline**: Three-day suspension without pay **Misconduct 2:** *Neglect of Duty* - failure to provide assistance **Discipline**: Three-day suspension without pay to be served consecutively with the other three-day suspension for a total of a six-day suspension

SUBSTANTIATED ALLEGATION SUMMARIES

Ordered Investigation OPCC File 2013-8484 Date of Incident: 2013 03 15
Requested by the department

An off-duty police officer was observed to be driving without any rear lights active on his vehicle and a traffic stop was initiated. When the investigating officer approached the off-duty officer's vehicle, he noticed that the off-duty officer had his police badge displayed.

The traffic investigation determined that the off-duty officer had consumed alcohol and he was provided with the approved screening device (ASD) breath demand. The off-duty officer registered two "warn" readings and was issued a three-day Immediate Roadside Prohibition (IRP).

Misconduct 1: Discreditable Conduct - conduct that discredits the department

Discipline: One-day suspension without pay

Misconduct 2: Discreditable Conduct - conduct that discredits the department

Discipline: Two-day suspension without pay

Registered Complaint OPCC File 2013-8548 Date of Incident: 2013 04 01

The police department reported this matter to the Office of the Police Complaint Commissioner as a Reportable Injury subject to section 89 of the *Police Act*. The circumstances of the event were that a male subject left a restaurant without paying his bill. Police attempted to stop the male and a brief struggle ensued wherein the male was taken to the ground. The male sustained a bloody nose and a bump to the left side of his forehead. Members of the public who witnessed the event subsequently filed registered complaints. These complaints were deemed to be admissible.

At the end of the investigation, the Police Complaint Commissioner identified investigative avenues that had not been explored, rejected the Final Investigation Report, and ordered further investigation be conducted by an outside agency. The Commissioner also designated an external discipline authority.

Upon completion of the further investigation, the external discipline authority determined that one count of *Abuse of Authority* had been substantiated and the officer was offered a prehearing conference wherein an agreement was reached with respect to the appropriate disciplinary/corrective measures in the circumstances.

Misconduct: *Abuse of Authority* - excessive force – empty hand

Discipline: Verbal reprimand; requirement to undertake specified training or retraining regarding tactical communication skills (verbal judo) as it relates to use-of-force training

Ordered Investigation OPCC File 2013-8915 Date of Incident: 2013 05 07
Requested by the department

A police officer was involved in an inappropriate relationship with an individual while assigned as the primary investigator of a police file.

The officer failed to follow procedure in relation to maintaining adequate documentation.

The officer accessed police databases for a purpose unrelated to his duties as a police officer and used his department-issued cell phone for personal reasons.

The officer failed to comply with departmental policy/regulations in relation to the handling of monies.

Misconduct 1: *Discreditable Conduct* - conduct that discredits the department

Misconduct 2: *Neglect of Duty* - inadequate documentation/notes/records

Misconduct 3: *Neglect of Duty* - failure to comply with departmental policy/regulations

Misconduct 4: *Unauthorized Use of Police Facilities and Resources*

Discipline: Dismissal on all counts

Ordered Investigation OPCC File 2013-8992 Date of Incident: 2013 07 21
Requested by the department

A police officer attended work on his day off and discovered his firearm was missing from his unsecured locker. It was later determined that another officer, who was working a call-out the previous night, saw that the locker was unsecured and so secured the firearm.

Misconduct: *Improper Use or Care of Firearms* - unsafe storage of firearm

Discipline: Verbal reprimand

Ordered Investigation OPCC File 2013-9264 Date of Incident: 2013 12 08
Requested by the department

An off-duty police officer was on his way home when he was stopped at a roadblock. The traffic investigation determined that the off-duty member had consumed alcohol and an Approved Screening Device demand was issued which resulted in a "fail" reading. The off-duty officer was arrested for impaired operation of a motor vehicle and operating a motor vehicle with more than 80 milligrams of alcohol in 100 millilitres of blood.

During the traffic investigation, the off-duty officer disclosed that he was a police officer in hopes of receiving favourable treatment.

The off-duty officer later pled guilty to Driving Without Reasonable Consideration for Others under section 144(1)(b) of the *Motor Vehicle Act* and was given a $2,000 fine in addition to a 90-day driving prohibition.

Misconduct 1: *Discreditable Conduct* - conduct that discredits the department

Discipline: One-day suspension without pay

Misconduct 2: *Discreditable Conduct* - conduct that discredits the department

Discipline: Two-day suspension without pay

Ordered Investigation OPCC File 2013-9281 Date of Incident: 2013 12 12
Requested by the department

The Office of the Police Complaint Commissioner received a request for an ordered investigation into the conduct of an off-duty officer while at a casino.

Following an investigation, the discipline authority determined that the officer had behaved in a discreditable manner in that when the member was approached by security staff, he identified himself as a police officer.

The member was offered a prehearing conference where he accepted a one-day suspension. After review, the Police Complaint Commissioner found that the discipline authority's decision to substantiate the allegation and the disciplinary measures imposed were both correct and appropriate with respect to the circumstances. However, the discipline authority did not substantiate two further allegations.

Pursuant to section 117 of the *Police Act*, the Police Complaint Commissioner appointed a retired judge to review the evidence and come to his own decision with respect to those allegations. Based on his review of the record, the retired judge found that the evidence available in relation to the two outstanding allegations appeared to be insufficient to substantiate either allegation.

Misconduct: *Discreditable Conduct* - conduct that discredits the department

Discipline: One-day suspension without pay

The retired judge's Reasons for Decision in relation to Section 117 Review 2013-9281 can be found at www.opcc.bc.ca.

Ordered Investigation OPCC File 2014-9325 Date of Incident: 2013 12 22
Requested by the department

An off-duty police officer's driving behaviour drew the attention of an on-duty police officer who proceeded to initiate a traffic stop.

The traffic investigation determined that the off-duty officer had consumed alcohol and a breath demand was given. The off-duty officer provided two samples into an Approved Screening Device (ASD); both indicating a "fail". The off-duty officer was issued a 90-day driving prohibition pursuant to the *Motor Vehicle Act* and his vehicle was impounded and held for 30 days.

Misconduct: *Discreditable Conduct* - conduct that discredits the department

Discipline: One-day suspension without pay

Ordered Investigation OPCC File 2014-9631 Date of Incident: 2014 04 08
Requested by the department

A male suspect grabbed two bottles of spirits from a liquor store and ran out without paying. A police officer observed the male running from the area of the store. The officer determined that the male running with the two bottles of spirits had just committed a criminal offence and pursued the suspect by driving his police vehicle down a set of stairs at the front doors of a hotel and eventually took the suspect into custody.

In driving his police vehicle down the set of stairs, significant damage was caused to the police vehicle as well as to the cement stairs of the hotel.

Misconduct 1: *Damage to Police Property*

Discipline: Verbal reprimand

Misconduct 2: *Damage to the Property of Others*

Discipline: Verbal reprimand

Ordered Investigation OPCC File 2014-10100 Date of Incident: 2014 11 06
Requested by the department

While off duty, a police officer was the subject of a traffic stop following a driving complaint from a citizen. The officer provided a breath sample into an Alcohol Screening Device (ASD), which resulted in a "fail" reading. The police member received a 90-day Immediate Roadside Prohibition (IRP) and his vehicle was impounded for 30 days.

Prior to providing the breath sample, the officer displayed his police badge and identified himself as a police officer.

Misconduct 1: *Discreditable Conduct* - conduct that discredits the department

Discipline: Four-day suspension without pay

Misconduct 2: *Discreditable Conduct* - conduct that discredits the department

Discipline: Three-day suspension without pay to be served consecutively with four-day suspension

Victoria Police Department

Ordered Investigation OPCC File 2013-9104-02 Date of Incident: 2013 09 30
Requested by the department

A police officer was assigned to guard a prisoner who had been transported to hospital for assessment. The prisoner was placed in a room, on a gurney, without restraints or handcuffs. The officer experienced radio transmission problems and advised hospital staff that he

Misconduct: *Neglect of Duty* - failure to comply with departmental policy/regulations

Discipline: Written reprimand

was going outside to broadcast on his radio. The prisoner fled the hospital. The prisoner was subsequently located and taken back into custody.

Ordered Investigation OPCC File 2014-9458 Dates of Incident: Various
Requested by the department

A RESPOND inspection was ordered on a property either owned, or associated to three police officers. The mandate of the RESPOND team, comprised of investigators from several agencies including police, fire, health, building, animal control and city by-law, is to inspect buildings that are the subject of complaints relating to noise, health concerns, police calls for service, other public nuisance issues or questionable living conditions.

Officer 1 approached another officer involved in the RESPOND inspection and requested a delay.

Officer 2, while in uniform, attended the City of Victoria bylaw office and requested a delay of the RESPOND inspection.

Officer 3 accessed the PRIME report documenting the RESPOND inspection of the rental property.

Misconduct by Officer 1: *Discreditable Conduct* - conduct that discredits the department

Discipline: Advice to future conduct

Misconduct by Officer 2: Discreditable Conduct - conduct that discredits the department

Discipline: Advice to future conduct

Misconduct by Officer 3: *Unauthorized Use of Police Facilities/Resources* - unauthorized search of CPIC/PRIME

Discipline: Written reprimand

West Vancouver Police Department

Ordered Investigation OPCC File 2013-9017 Dates of Incident: Various
Requested by the department

A police officer accessed CPIC and PRIME for purposes unrelated to the performance of his duties on multiple occasions.

The officer disclosed CPIC and PRIME information to another person for purposes unrelated to the performance of his duties.

Misconduct 1: *Unauthorized Use of Police Facilities/Resources* - unauthorized search of CPIC/PRIME

Discipline: Verbal reprimand and an order to participate in a review of departmental policy and relevant manuals in relation to accessing PRIME and CPIC information unde the direct supervision of a superior

Misconduct 2: *Improper Disclosure of Information* - disclosing information acquired as police officer

Discipline: Written reprimand and an order to participate in a review of departmental policy and relevant manuals in relation to the use and disclosure of PRIME and CPIC information under the direct supervision of a superior

Ordered Investigation OPCC File 2014-9372 Date of Incident: 2013 11 23
Requested by the department

A civilian accompanied a police officer on an approved ride-along. The police department became aware of a photograph posted on a social media website that appeared to have been taken in the police department parking lot. The photograph was of a young male holding a police-issued weapon.

Misconduct: *Improper Use or Care of Firearms* - failure to use a firearm in accordance with law

Discipline: Advice to future conduct; an order to review departmental policy and relevant manuals in relation to familiarization, use and care of firearms; and an order to review provisions of the Criminal Code and other Federal Statutes (e.g. *Firearms Act*), specific to the possession, handling and transportation of restricted and prohibited weapons

Internal Discipline OPCC File 2014-9683 Date of Incident: not applicable

A police officer disagreed with his Performance Management Report and provided a detailed response. Included in the officer's response were allegations that his supervisor acted in an unprofessional manner during some of their interactions. After reviewing the officer's response, the Chief Constable identified a potential breach of the Harassment in the Work Place Policy by the supervisor.

Misconduct: *Discreditable Conduct* - disorderly conduct prejudicial to the maintenance of discipline in the department

Discipline: Although this matter was found to be substantiated, no discipline was imposed. The officer received an apology

STATISTICAL REPORTS

When a complaint is received at the OPCC, a file is opened and assigned to an investigative analyst. All complaints are reviewed to determine whether they are admissible pursuant to the *Police Act* and if so, complaints are then broken down into their individual allegations. An admissible complaint file often contains more than one allegation, involving one or more officers.

The following is an example of how one complaint file can result in multiple allegations and results:

> *A complainant states that three officers entered his residence without a warrant and two officers used excessive force in order to handcuff him. The complainant further states one officer unlawfully seized property that was subsequently lost.*

The admissibility analyst reviews the complaint and breaks it down into its individual components or "allegations". The above complaint would likely be broken down into the following allegations of misconduct as defined by the *Police Act:*

Abuse of Authority	unlawful entry – involving three officers
Abuse of Authority	excessive force – involving two officers
Abuse of Authority	unlawful seizure of property – involving one officer
Neglect of Duty	improper care and handling of seized property – involving one officer

Following the investigation, the discipline authority may determine that none, some or all of the allegations of misconduct have been proven against none, some or all of the officers. Continuing with the example above, the decision may be:

Abuse of Authority	unlawful entry – substantiated against officers 1, 2 and 3
Abuse of Authority	excessive force – substantiated against officer 2
Abuse of Authority	unlawful seizure of property – not substantiated
Neglect of Duty	improper care and handling of seized property – not substantiated

Please note the data contained in the following report may vary slightly from previously released statistical reports. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.

Files Opened

Yearly Comparisons (since *Police Act* amendments)

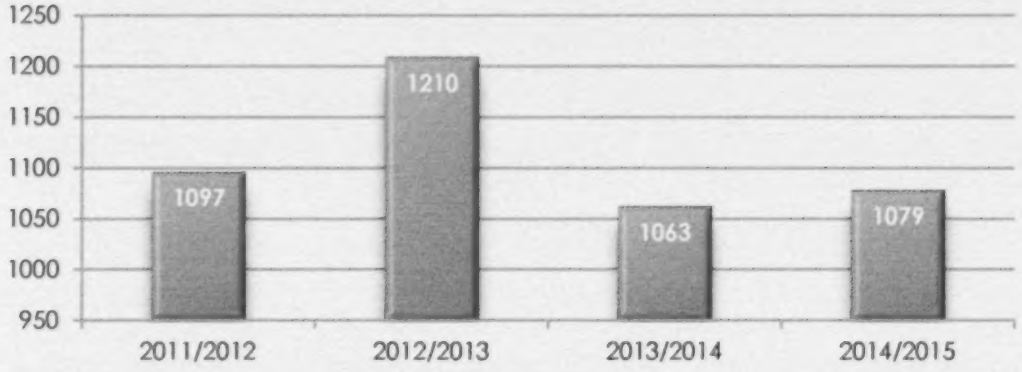


Chart 3: Files Opened by Year

There was a minor increase of 2% in the number of files opened in 2014/2015 as compared to the previous year. The largest change was seen between 2012/2013 and 2013/2014 when there was a 12% decrease in the number of files opened.

Yearly Comparisons by Department

Department	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015
Abbotsford	90	93	105	83
Central Saanich	10	9	6	10
CFSEU	-	1	1	3
Delta	66	70	46	60
Nelson	13	7	12	14
New Westminster	58	63	48	73
Oak Bay	3	5	5	7
Port Moody	24	25	27	24
Saanich	59	64	54	77
SCBCTAPS	75	72	52	46
Stl'atl'imx	1	6	1	4
Vancouver	544	596	539	531
Victoria	113	153	134	113
West Vancouver	41	46	33	34
TOTAL	**1097**	**1210**	**1063**	**1079**

Chart 4: Files Opened by Department

The Vancouver Police Department, Victoria Police Department and the Abbotsford Police Department consistently have the greatest number of files opened each fiscal year. These areas also have higher population counts and more sworn police officers as compared to the other municipalities.

Complaint Categories

REGISTERED COMPLAINTS	Registered complaints are public trust complaints about a police officer's conduct or actions that affect a member of the public.
QUESTIONS OR CONCERNS	If a member of the public has a question or concern about a municipal police officer's conduct, but does not wish to file a registered complaint, he or she may contact a municipal police department directly. The member of the municipal police department who receives the question or concern must inform the professional standards section of the involved municipal police department. The professional standards section must record the question or concern and forward a copy of the record, along with how it was resolved, to the Office of the Police Complaint Commissioner for review.
ORDERED INVESTIGATIONS & MANDATORY EXTERNAL INVESTIGATIONS	Complaint investigations may be ordered by the Commissioner, whether requested by a department or as a result of information received from any source that raises concerns about officer misconduct. The *Police Act* also requires the Commissioner to order a mandatory external investigation into any incident resulting in serious harm or death.
MONITOR FILES	Monitor files are opened when information is received by the OPCC from the police, including reportable injuries, or from other sources such as media reports that may require an investigation pursuant to the *Police Act*. Typically, these are incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have yet been identified. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered investigation is required. If no action is deemed necessary, the file is concluded as "reviewed and closed".
INTERNAL DISCIPLINE	Internal discipline files involve performance management issues or employer/employee concerns that do not affect members of the public.
SERVICE OR POLICY	Service or policy complaints are those regarding the quality of a police department's service to the community or regarding their operating policies.

Complaint Types

Files Opened in 2014/2015 by Type

Types of Files	2011/2012		2012/2013		2013/2014		2014/2015	
Internal Discipline	47	4%	32	3%	14	1%	16	1%
Monitor	243	22%	304	25%	321	30%	307	28%
Questions or Concerns	232	21%	243	20%	113	11%	135	13%
Mandatory External Investigations (s. 89)	7	1%	5	n/a	28	3%	24	2%
Investigations Initiated by PCC	2	n/a	16	1%	26	2%	20	2%
Investigations Requested by Department	32	3%	35	3%	41	4%	31	3%
Registered Complaints	534	49%	575	48%	517	49%	532	50%
Service or Policy[2]	-	-	-	-	3	n/a	14	1%
TOTAL		1097		1210		1063		1079

Chart 5: Files Opened by Type

There has been a minor increase of 3% in the number of registered complaints received in 2014/2015 as compared to the previous fiscal year. Since the Independent Investigations Office (IIO) became operational in 2012, there has been a substantial increase in the number of mandatory external investigations. The number of investigations requested by police departments and initiated by the Commissioner has decreased as compared to the previous fiscal year.

[2] Beginning in 2013/2014, the OPCC modified the way it reports *Service or Policy Complaints*. Statistical comparisons with early years is not yet possible.

Files Opened in 2014/2015 by Department & Category

	TOTAL	Inadmissible Registered	Admissible Registered	Admissibility Decision Pending	Mandatory External Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	83	19	11	4	2	1	12	23	6	4	1
Central Saanich	10	4	1	0	1	1	1	0	2	0	0
CFSEU	3	1	0	0	1	1	0	0	0	0	0
Delta	60	17	9	1	0	7	1	14	10	0	1
Nelson	14	4	5	1	1	1	0	2	0	0	0
New Westminster	73	18	4	1	2	4	0	28	15	1	0
Oak Bay	7	4	0	0	0	0	0	1	2	0	0
Port Moody	24	7	2	0	0	0	1	0	13	1	0
Saanich	77	29	8	4	0	1	0	8	25	2	0
SCBCTAPS	46	7	8	0	2	4	0	17	4	4	0
Stl'atl'imx	4	2	0	1	0	0	0	1	0	0	0
Vancouver	531	149	111	16	14	8	5	185	33	1	9
Victoria	113	47	18	6	1	2	0	25	11	0	3
West Vancouver	34	8	4	1	0	1	0	3	14	3	0
TOTAL	**1079**	**316**	**181**	**35**	**24**	**31**	**20**	**307**	**135**	**16**	**14**

Chart 6: Files Opened by Category

How Registered Complaints Were Received in 2014/2015

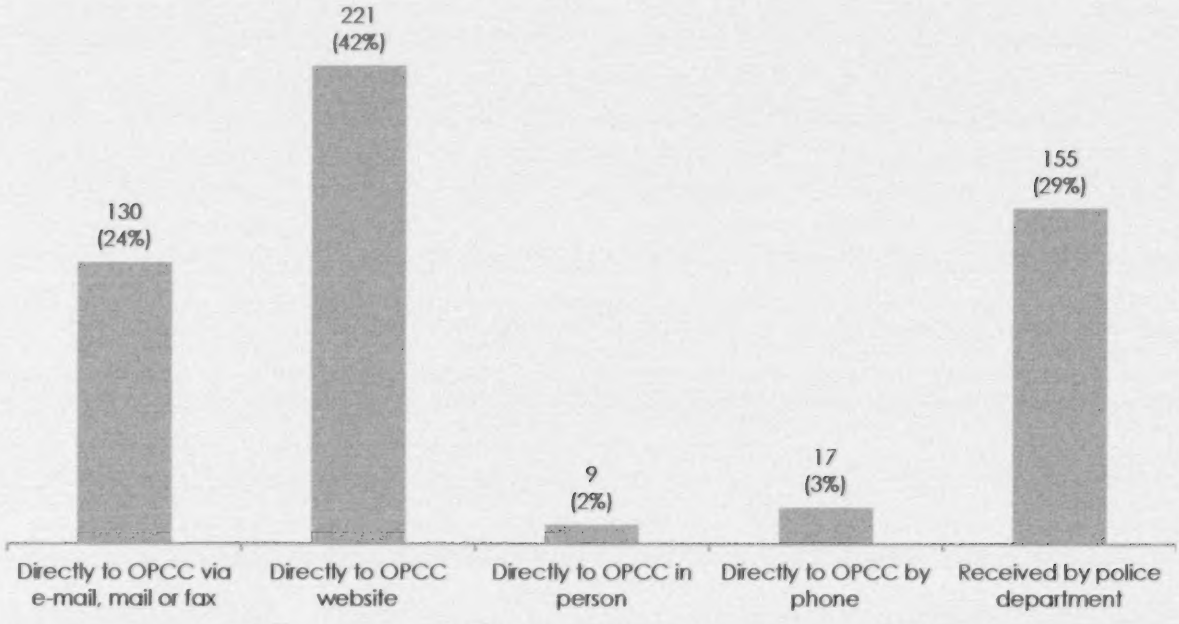


Chart 7: How Complaints Were Received

There are a variety of ways to register a complaint against a municipal police officer or department. Complainants use the OPCC website most frequently to file a complaint, followed by filing a complaint directly with the police department. Police departments are required to forward all registered complaints and questions or concerns to the OPCC for assessment and review.

ADMISSIBILITY

Admissibility of Registered Complaints Received in 2014/2015

The *Police Act* requires that all registered complaints must first be reviewed by the OPCC to determine whether they are admissible under Division 3, Public Trust of the *Police Act*.
In order for a complaint to be deemed admissible, it must:

1. contain an allegation of conduct that, if substantiated, would constitute misconduct as defined by the Act;
2. be filed within one year of when the incident occurred; and
3. not be frivolous or vexatious.

A complaint deemed "inadmissible" under Division 3 could still be investigated under a different division of the *Police Act*. If the complaint contains allegations that concern a department's services or policies, it would be processed under Division 5 of the Act. If the complaint contains labour or management issues, it would be processed under Division 6 of the Act.

A registered complaint must also involve a municipal police department to be under the jurisdiction of the OPCC.

Breakdown of Admissibility Reviews in 2014/2015

When conducting an admissibility review, the primary document relied upon is the complaint itself. However, if the information in the complaint is not clear, an OPCC analyst will contact the complainant to confirm the material aspects of the complaint. If necessary, the analyst may contact the originating police agency for further information, in order to have context in which to assess the allegations and arrive at a principled decision regarding the admissibility of the complaint.

Analysts are careful not to weigh the evidence at this stage, but in exercising their gatekeeping function, they must ensure they have considered all the relevant circumstances which provide an accurate context to the matter.

With this important gate-keeping role, the OPCC has been able to ensure that those complaints which meet the admissibility criteria are forwarded to municipal police departments for alternative dispute resolution or an in-depth examination.

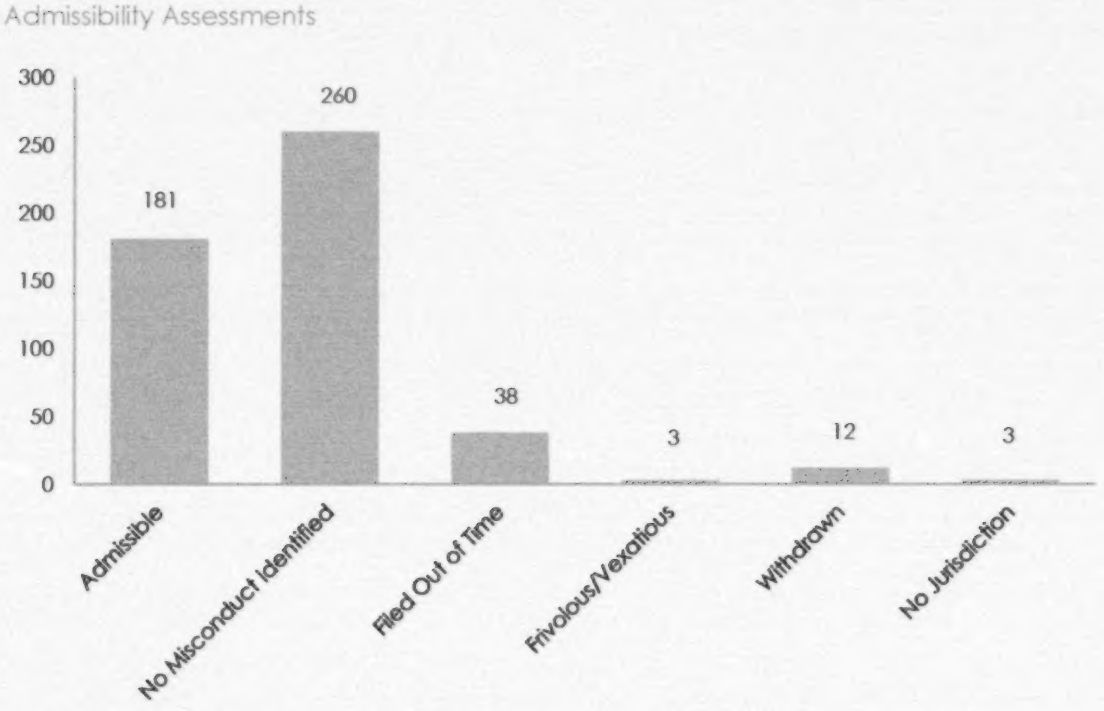


Chart 8: Admissibility of Complaints

A total of 497 admissibility assessments were completed in 2014/2015. In 52% of the assessments there was no misconduct identified in the complaint. When a complaint is determined to be inadmissible, complainants will receive a letter outlining the reason why their complaint was not admissible[3].

[3] When this report was generated in April 2015, 35 registered complaints were undergoing an admissibility review and a determination of admissibility for those complaints had not yet been made. "Withdrawn" complaints here mean that a complainant withdrew his or her complaint prior to an admissibility assessment. "No jurisdiction" means that a complaint was determined to be admissible based on the conduct described, but through initial investigation, it was determined that a municipal police officer was not involved (e.g. by-law officer or jail guard).

Admissibility Comparisons

Fiscal year	Breakdown of Registered Complaints by Fiscal Years						
	Admissible	Inadmissible					
		No Misconduct Identified	Filed Out of Time	Frivolous/ Vexatious	Withdrawn	No Jurisdiction	Service or Policy Component Identified (Division 5)
2011/2012	220 of 534 (41%)	245 (46%)	33 (6%)	3 (1%)	7 (2%)	13 (2%)	13 (2%)
2012/2013	264 of 575 (46%)	218 (38%)	45 (8%)	6 (1%)	13 (2%)	23 (4%)	6 (1%)
2013/2014	227 of 517 (45%)	223 (43%)	33 (6%)	6 (1%)	14 (3%)	7 (1%)	7 (1%)
2014/2015	181 of 497[4] (36%)	260 (52%)	38 (8%)	3 (1%)	12 (2%)	3 (1%)	-

Chart 9: Complaints by Fiscal Year

This year we have seen a decrease in the number of admissible complaints as compared to previous years. Part of this reason could be a result of a more robust admissibility assessment that occurs when a complaint is filed.

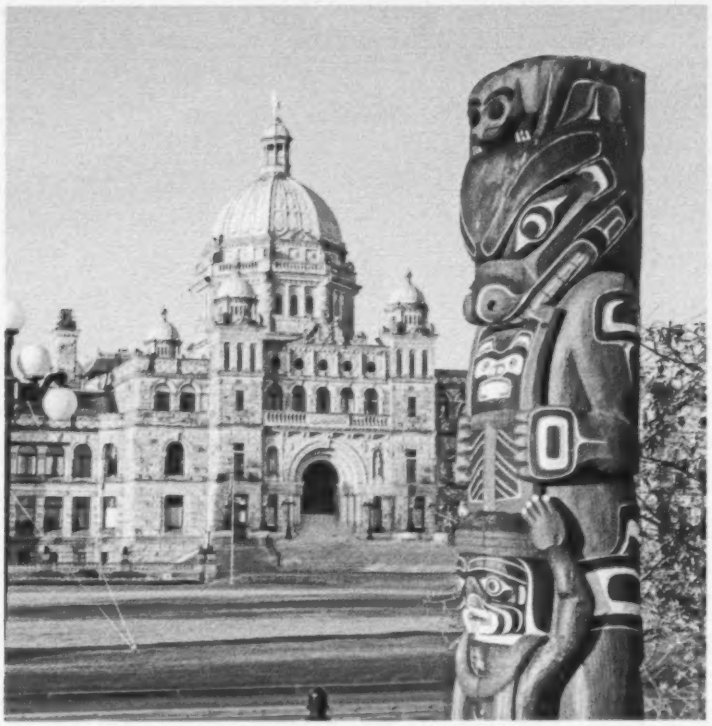
[4] See footnote 3 on page 60

Types of Misconduct Alleged

Once a complaint is deemed admissible or an investigation is initiated, allegations of misconduct are identified against individual officers. The *Police Act* identifies 13 public trust allegations:

1. *Abuse of Authority*
2. *Accessory to Misconduct*
3. *Corrupt Practice*
4. *Damage to Police Property*
5. *Damage to Property of Others*
6. *Deceit*
7. *Discourtesy*
8. *Discreditable Conduct*
9. *Improper Disclosure of Information*
10. *Improper Off-Duty Conduct*
11. *Improper Use or Care of Firearms*
12. *Misuse of Intoxicants*
13. *Neglect of Duty*

From April 1, 2014, to March 31, 2015, the OPCC identified **539** public trust allegations and forwarded them to the officers' departments for investigation. Please note that these are only allegations and do not reflect whether they were substantiated or not substantiated. The allegation *Abuse of Authority* (e.g. arrest or detention without good and sufficient cause or unnecessary use of force) accounts for almost half (48%) of all allegations forwarded for investigation, followed by *Neglect of Duty* (20%), (e.g. inadequate investigation, failure to provide Charter rights, or failure to comply with departmental policy).



Types of Alleged Misconducts for 2014/2015

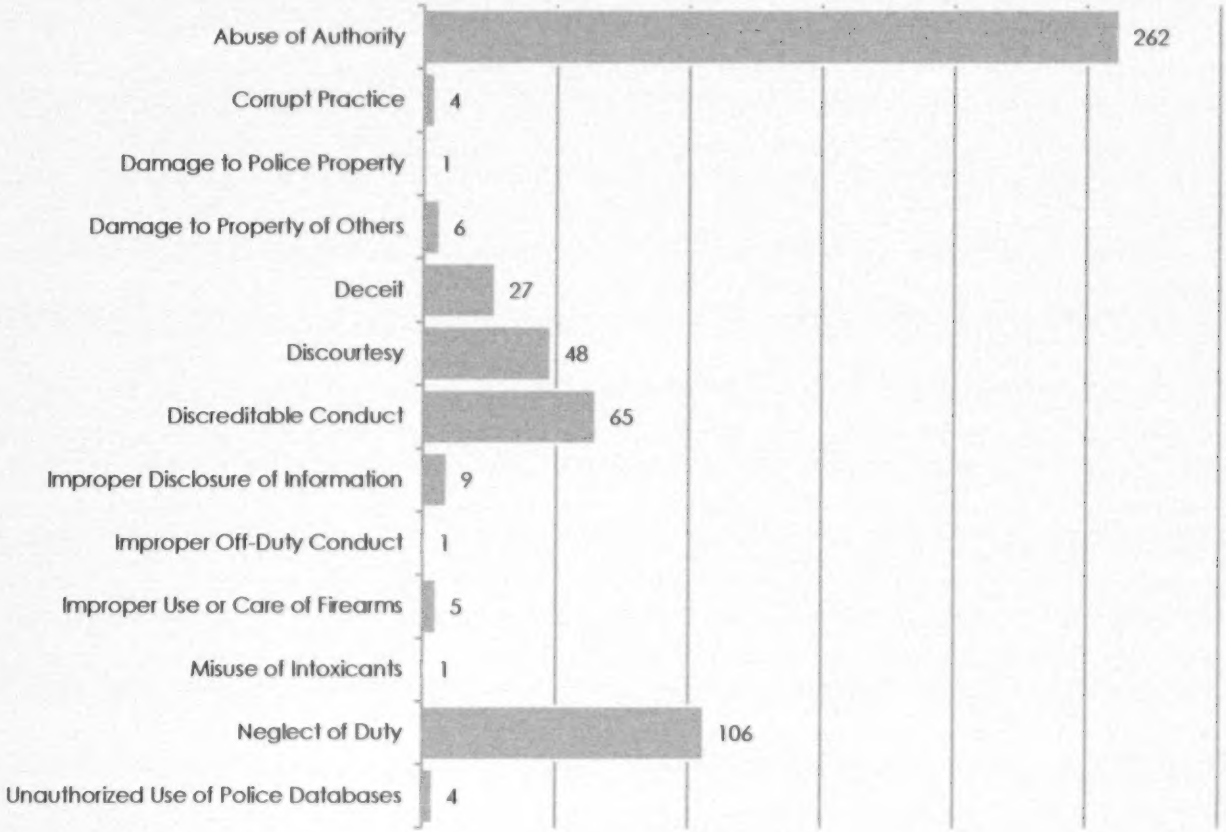


Chart 10

NOTE:

- These are allegations arising from admissible registered complaints and ordered investigations pursuant to Division 3 (Public Trust).
- A single registered complaint or ordered investigation may contain more than one allegation of misconduct.
- "Unauthorized Use of Police Facilities/Resources" is a subsection of "Corrupt Practice". The OPCC distinguishes this as a separate category of misconduct in order to better capture statistics pertaining to misconduct such as unauthorized searches of CPIC or PRIME-BC.

Allegations Concluded Between April 1, 2014, and March 31, 2015

The following figures refer to allegations, not complaint files as in the previous section. A complaint file may contain many allegations of misconduct, involving multiple police officers, and have a variety of outcomes. Therefore, straight comparisons between opened files and concluded allegations cannot be made.

Allegations of misconduct against an officer may result in one or more of the following outcomes:

Withdrawn	A complainant may withdraw his or her complaint at any time in the process; however, the Commissioner may direct that the investigation continue or order an investigation.
Informally Resolved	A complaint may be informally resolved pursuant to Division 4 of the *Police Act*. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all informal resolutions and if the Commissioner determines it is inappropriate or inadequate, the resolution is set aside and the investigation continues.
Mediated	A complaint may be resolved through mediation, facilitated by an independent professional mediator. If no agreement can be reached, the investigation continues. The Commissioner has the authority to direct a complainant to attend mediation, and similarly, the Chief Constable of a department can order the officer to attend.
Discontinued	The Commissioner may discontinue an investigation into allegations of misconduct if it is determined that further investigation is neither necessary, nor reasonably practicable, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false.

Substantiated

If following an investigation, the discipline authority determines the allegation appears to be supported by the evidence, the discipline authority must then decide on appropriate disciplinary and/or corrective measures to impose. The officer may accept the proposed measures at a prehearing conference, or the matter may proceed to a discipline proceeding. The Commissioner may arrange for a Public Hearing or Review on the Record by a retired judge if it is in the public interest. The officer also has an automatic right to a Public Hearing or Review on the Record if the proposed penalty is a reduction in rank or dismissal.

Not Substantiated

Following an investigation, the discipline authority may determine there is not sufficient evidence to support the allegation of misconduct. All complaints determined to be unsubstantiated are reviewed by the OPCC and if it is determined that there is a reasonable basis to believe the discipline authority's decision is incorrect, the Commissioner may appoint a retired judge to conduct a review of the investigation and arrive at a decision.

Allegations Concluded in 2014/2015

Between April 1, 2014, and March 31, 2015, the OPCC concluded 558 allegations.

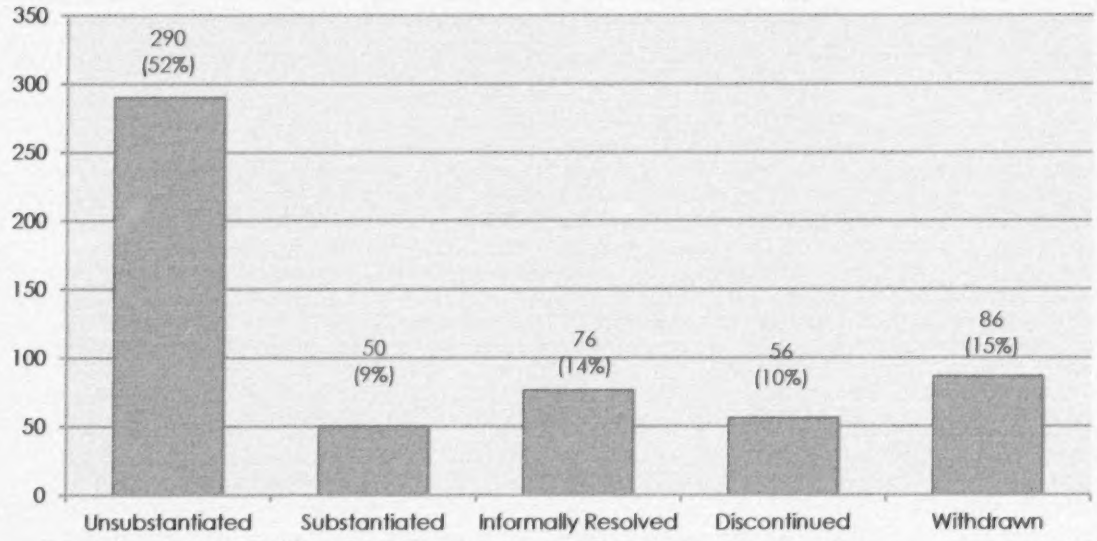


Chart 11: Types of Alleged Misconduct for 2014/2015

A total of 340 allegations (61% of all concluded allegations) received a determination of substantiated or not substantiated by a discipline authority following a review of a *Final Investigation Report* which is written by a police department's Professional Standards Investigator. The finding of misconduct is based on a balance of probabilities which is similar to the standard used in civil proceedings. The remaining 39% of allegations were informally resolved, discontinued or withdrawn. Of those complainants who withdrew their complaints, 36% reported that they were satisfied and 26% reported that they had lost interest in the complaint process.

Yearly Comparisons of Concluded Allegations

	Number of Allegations Concluded[1]	Discontinued	Informally Resolved/ Mediated	Withdrawn	Substantiated	Unsubstantiated	Percentage Substantiated[2]
2011/ 2012	809	111 (14%)	175 out of a total of 723 (24%)	51 (6%)	55	417	12%
2012/ 2013	704	64 (9%)	170 out of a total of 643 (26%)	88 (12%)	51	331	13%
2013/ 2014	923	114 (12%)	197 out of a total of 793 (25%)	81 (9%)	70	461	13%
2014/ 2015	558	56 (10%)	76 out of a total of 459 (17%)	86(15%)	50	290	15%

Chart 12: Concluded Allegations

There was a substantial decrease of 40% in the number of allegations concluded this year as compared to previous years. This likely coincides with the lower admissibility rate in addition to the lower number of ordered investigations. This year showed the greatest percentage of allegations substantiated, where 15% of allegations that were forwarded to a discipline authority resulted in substantiation. Disciplinary and corrective measures under the *Police Act* range from advice to future conduct, counselling/treatment, verbal or written reprimand, suspension, reduction in rank, or dismissal. The most frequent disciplinary measures imposed this year were suspensions followed by written reprimands. Discipline authorities must consider a number of aggravating and mitigating factors when coming to a decision on an appropriate disciplinary or corrective measure.

[2] This percentage is calculated based on the number of allegations forwarded to the discipline authority for decision. Not all allegations are forwarded to the discipline authority for decision; they may be withdrawn, discontinued or informally resolved.

ALTERNATIVE DISPUTE RESOLUTION

Informal Resolution

Under the *Police Act*, only registered complaints are eligible for Alternative Dispute Resolution. Between April 1, 2014, and March 31, 2015, the OPCC reviewed and approved informal resolution agreements relating to 76 allegations of misconduct, or 17% of all allegations contained in registered complaints.

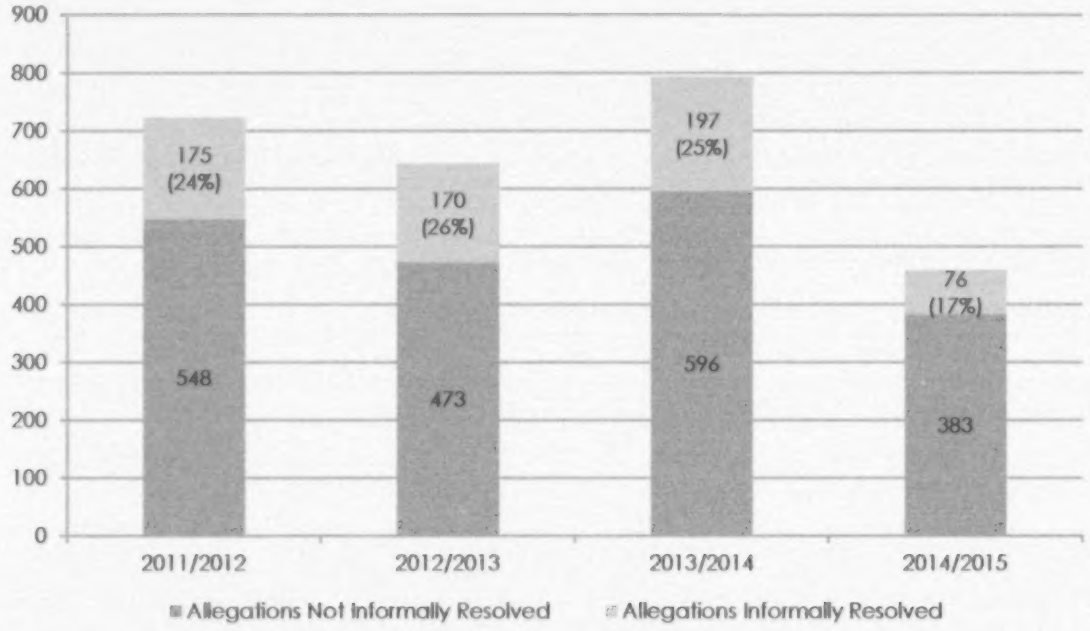


Chart 13: Informal Resolution

Based on the current legislation, it is the police department which decides whether to attempt to resolve a complaint using informal resolution. The Commissioner cannot direct police departments or complainants to use Alternative Dispute Resolution. Despite efforts to advise departments of complaints suitable for informal resolution, this year saw the lowest number of allegations informally resolved. This could be linked to the lower admissibility rate for this year. Mechanisms have been put in place to track the success rate of those complaints where informal resolution is determined to be suitable and the OPCC is now tracking why some informal resolutions do not succeed. It is hoped that this information will assist in improving the Alternative Dispute Resolution Program.

Mediation

Mediation is a process for resolving disputes between a complainant and an officer with the assistance of a neutral professional mediator.

There were no mediations held between April 1, 2014, and March 31, 2015.

REPORTABLE INJURIES

The *Police Act* requires departments to report all incidents where an individual in the care or custody of the police suffers a "reportable injury" that requires medical treatment. These "reportable injuries" are opened as Monitor Files until it is determined whether an investigation will be conducted.

	2011/2012	2012/2013	2013/2014	2014/2015
	238 Notifications/ 264 Uses of Force	284 Notifications/ 313 Uses of Force	331 Notifications/ 355 Uses of Force	312 Notifications/ 381 Uses of Force
Arwen/Bean Bag	17	11	15	23
Baton	7	6	6	4
Dog Bite	108	101	84	103
Empty Hand	58	55	58	106
Firearm	2	2	2	5
MVA	8	8	18	18
OC Spray	3	3	3	5
Other[6]	18	60	67	28
Pre-Existing	3	17	15	20
Self-Inflicted	34	42	80	61
Taser	6	8	7	8
Mandatory Investigations	7	5	28	24
PCC Ordered Investigations	-	10	7	4
Department Request Investigations	2	4	1	1
Registered Complaints	13	5	8	6

Chart 14: Reportable Injury by fiscal year

There has been a notable increase in the number of reportable injury notifications reported to the OPCC and mandatory external investigations since the implementation of the Independent Investigations Office (IIO) in September 2012. This year, 24 reportable injury notifications, or 8% of all reportable injuries, met the definition of *serious harm* under the *Police Act* and resulted in a mandatory external investigation under the *Police Act*. Until this year, dog bite injuries from the use of police service dogs were the most frequent reportable injury reported to this office, accounting for 24% of all injuries in 2013/2014. While dog bite injuries increased this year and accounted for 27% of all injuries, injury resulting from empty-hand tactics (e.g. strikes, take-

[6] "Other" are incidents where a person is in medical distress with the cause being unknown.

downs) was the most frequently reported injury to this office (28%). This is an increase of 83% compared to the previous year. There was also an increase in the number of reportable injuries resulting from the use of less lethal force options such as the Arwen/bean bag shotgun. There were five reportable injuries involving a firearm as compared to two the previous year. Very few people who suffer a reportable injury file a registered complaint.

APPOINTMENT OF A NEW DISCIPLINE AUTHORITY [s.117]

If, following an investigation, the discipline authority determines that the conduct of the officer did not constitute misconduct, and the Commissioner believes there is a reasonable basis to believe the decision is incorrect, the Commissioner may appoint a retired judge to review the matter.

Between April 1, 2014, and March 31, 2015, the Commissioner appointed a retired judge to act as a new discipline authority in **two** matters.

REVIEW ON THE RECORD [s.141]

Following a discipline proceeding, the Commissioner has the discretion to order a review of the proceeding where there is a reasonable basis to believe that the decision of the discipline authority is incorrect, or it is in the public interest to review the matter.

Between April 1, 2014, and March 31, 2015, the Commissioner appointed a retired judge to conduct a review on the record in relation to **one** matter.

PUBLIC HEARING [s.143]

Public hearings remain an option for the Commissioner if he believes such a review of a *Police Act* matter is required in the public interest. Public hearings are conducted by retired judges, are open to the public and evidence is presented under oath.

Between April 1, 2014, and March 31, 2015, the Commissioner ordered **one** public hearing.

All decisions from these three adjudicative avenues are available to the public through the OPCC website at www.opcc.bc.ca. As well, there is a schedule of current public hearings indicating the date and place of the hearings. All public hearings are open to the public to attend.

Complaint Form

Office of the Police Complaint Commissioner

If you wish to file a complaint concerning an officer with a municipal police department, please complete the form below. Please fill in as much information as possible and additional pages may be attached if required. If you require assistance, someone is available to help you.

What you should know:

Registered Complaints
Registered complaints are processed formally under the BC *Police Act*. The complaint must contain allegations of police misconduct; not be frivolous or vexatious; and the incident must have occurred within 12 months of the filing of the complaint. If the Office of the Police Complaint Commissioner determines the complaint meets this criteria, you will be entitled to various rights under the *Police Act*, including:

- **Participating in a mediation session or informal resolution**
- **Being kept informed of the progress of the investigation**
- **Receiving a final investigation report**
- **Given the opportunity to make submissions on the complaint, adequacy of the investigation, and what you feel are appropriate disciplinary or corrective measures**
- **If not satisfied with the outcome, the ability to appeal the decision**

Service or Policy Complaints
Complaints about the policies or the services of a police organization are the responsibility of the department's police board. The board must advise the OPCC and the complainant of how the complaint was handled; including what course of action, if any, was taken and must provide a summary of the results of any investigation or study.

The Police Complaint Commissioner cannot require a board to take any particular course of action regarding a Service or Policy complaint, but may make recommendations to the Board.

If you would like further information about the *Police Act* complaint process please visit the OPCC website at www.opcc.bc.ca or call 1- 877-999-8707.

Registered Complaint ☐ **Service or Policy Complaint ☐**

Your Details:

* Indicates this information is required in order to process your complaint. Please be as precise as possible.

Last Name: * _____ **First Name:** * _____ **Title (eg. Mr):** _____

Mailing Address (or where you'd like to be contacted): _____

Date of Birth: _____ (Year / Month / Day)

Home telephone: _____

Work telephone: _____

Cell phone: _____

Email Address _____

* You must provide at least 1 way in which we can contact you *

Details of the Complaint:

When did the incident happen? * _____ (Year / Month / Day) **Time it occurred?** * _____

Where did the incident happen? * _____

Name of the Police Department involved: * _____ **Police File # (if known):** _____

Name or badge number of Officer(s) – if known: _____

Were there any witnesses? If so, please list their names and contact information (if known): _____

Describe your injuries (if any): _____

If you received treatment for your injuries:

Where? _____

When? _____

Description of Complaint

Please describe your complaint and the details of what occurred. If required, you may attach additional pages:

Page ____ of ____

Signature of Complainant _____ *Date signed* _____

The completed form may be submitted to any municipal police department or submitted directly to:

The Office of the Police Complaint Commissioner
5th Floor, 947 Fort Street , PO Box 9895 Stn Prov Govt, Victoria, BC V8W 9T8
Tel: 250 356-7458 Fax: 250 356-6503 Website: www.opcc.bc.ca

A wide variety of support groups are available to assist you with the complaint process. For help finding the right support group for your needs, please call our office at 1 877-999-8707 and ask for the Support Group Co-ordinator. A complete list of support groups is also available on our website.

To be completed by the person receiving this complaint:

I hereby acknowledge receipt of the above-noted complaint,
Received on _____ **at** _____ } _____
(Year/Month/Day) (Time) (Name of person receiving complaint)

Agency receiving complaint: _____

How was the complaint received? **In person** ☐ **By mail** ☐ **By phone** ☐ **By webmail** ☐ **On Line** ☐

If received orally, contents of complaint read back to Complainant? **Yes** ☐ **No** ☐

Copy of complaint acknowledging receipt provided to Complainant? **Yes** ☐ **No** ☐

Forwarded to OPCC: ☐ **Date sent:** _____

Record of Question or Concern from the Public

Office of the Police Complaint Commissioner
British Columbia, Canada

- Pursuant to **section 85 of the *Police Act*** all municipal police departments are to make record of reports not resulting in registered complaints.
- Pursuant to **section 85(1) of the *Police Act*** the police complaint commissioner has directed that **this** form be used for any oral or written report received from a member of the public or any other person that raises a question or concern about the conduct of a member of a municipal police department but that does not result in the making and registration of a complaint under section 78 *[how complaints are made]*.
- Pursuant to **section 85(1)(b)(1) of the *Police Act*** every person who reports a question or concern is to be provided the information or advice required under the guidelines prepared by the police complaint commissioner.
- Pursuant to **section 85(3) *of the Police Act***, subject to **section 79** [time limit for making complaints] and **section 82** [determination of whether complaint is admissible], nothing in this section prevents any person who raises a question or concern about the conduct of a member or former member from making a complaint about the same matter under **section 78** [how complaints are made].

What you should know:

The member of the municipal police department who receives the question or concern from a member of the public or any other person must complete this form and forward it onto the professional standards section of the involved municipal police department.

The professional standards section must record the question or concern, and forward a copy of this document along with how the question or concern was resolved to the Office of the Police Complaint Commissioner for review.

Person's Contact Details:

* Indicates this information is required for processing purposes. Please be as precise as possible.

Last Name: * **First Name:** * **Title (eg. Mr):**

Mailing Address (or where you'd like to be contacted):

Date of Birth:
(Year / Month / Day)

Home telephone:

Work telephone:

Cell phone:

Email Address:
** Please provide at least 1 contact option **

Details of the Question or Concern:

When did the incident happen? * **Time it occurred?** *
(Year / Month / Day)

Where did the incident happen? *

Name of the Police Department involved: * **Police File # (if known):**

Name or badge number of Officer(s) – if known:

Were there any witnesses? If so, please list their names and contact information (if known):

Details of Question or Concern

If required, you may attach additional pages:

___ of ___

To be completed by the person receiving the question or concern:

I hereby acknowledge receipt of the above-noted question or concern

Received on *(Year/Month/Day)* **at** *(Time)* *(Name of person receiving question or concern)*

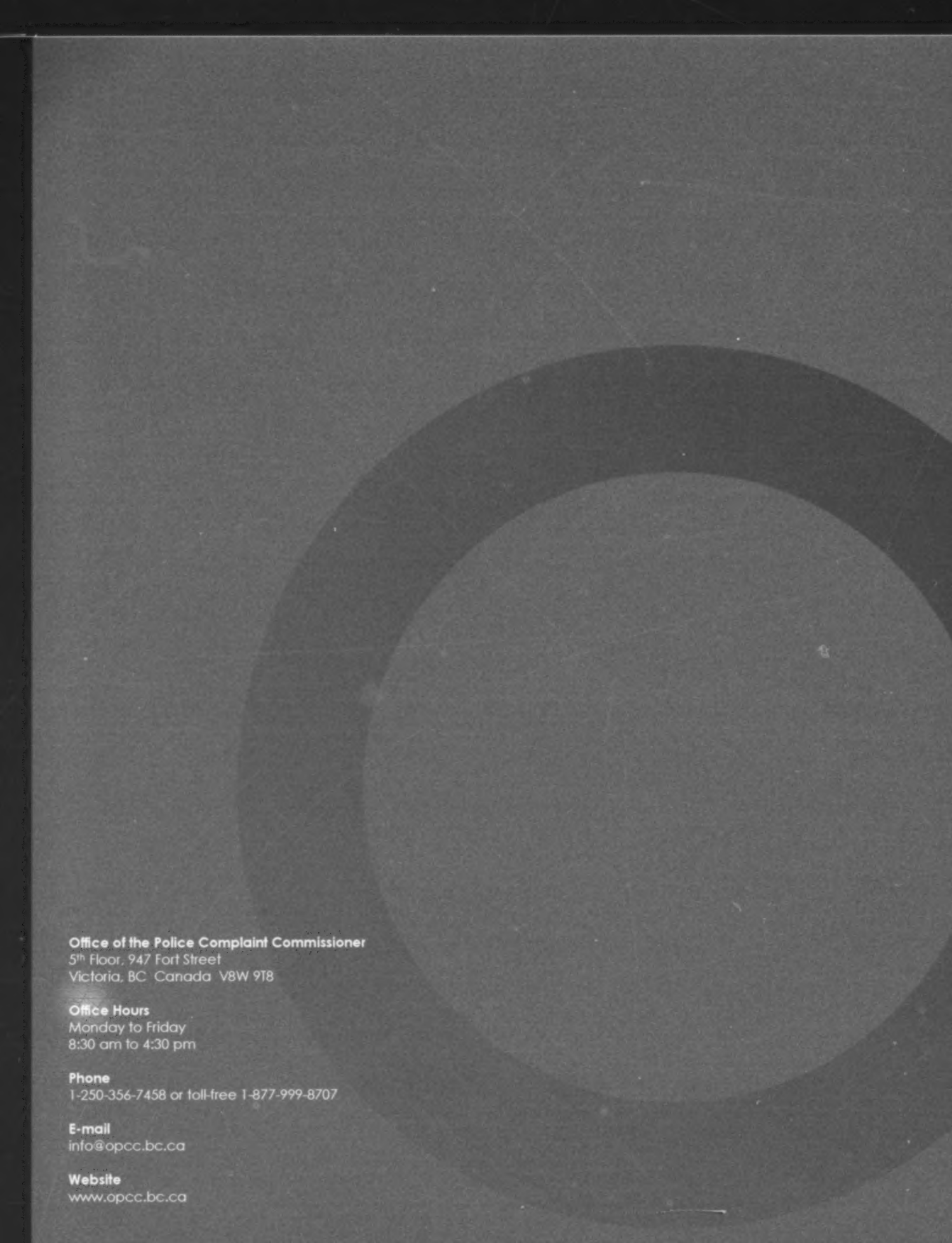
Municipal Police Department receiving question or concern:

How was it received? **In person** **By mail** **By phone** **By webmail** **On Line**

If received orally, was it read back to the person who reported the matter to ensure accuracy? **Yes** **No**

Forwarded to PSS: **Date sent:**

Copied to the Office of the Police Complaint Commissioner **Date sent:**



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